IMPERIAL COUNTY SUPERIOR COURT

LOCAL RULES

ADOPTED, EFFECTIVE JANUARY 1, 2004

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CHAPTER 1

GENERAL RULES

RULE 1.00 UNIFIED COURT

The Superior Court of the State of California in and for the County of Imperial is a unified court under provisions of Article VI, Section 5 of the California Constitution.[1]

[Adopted, effective January 1, 2000]

RULE 1.01 EFFECTIVE DATE

These rules shall take effect on July 1, 2003.

[Adopted, effective July 1, 2003]

RULE 1.02 CITATION OF RULES

These rules shall be known and cited as the "Local Rules for the Imperial County Superior Court."

[Adopted, effective January 1, 2000]

RULE 1.03 CONSTRUCTION OF RULES

These rules shall be liberally construed to facilitate the proper and efficient administration of judicial business and to promote the administration of justice. They are intended to supplement statutes and the California Rules of Court ("CRC"); and, should the local rules conflict with a statute or CRC, the statute or CRC will control.

[Adopted, effective January 1, 2000]

Rule 1.04 AMENDMENTS

These rules may be amended or repealed and new rules may be added by majority vote of the judges.

[Adopted, effective January 1, 2000]

[1] Litigants may use as a short title "Imperial County Superior Court" in pleadings and in addressing the Court in correspondence.

CHAPTER 2

ADMINISTRATIVE MATTERS

RULE 2.00 COURT ADMINISTRATION

All judges participate in court policy-making by means of regularly scheduled meetings consisting of the entire membership of the judiciary. By majority vote, the judges may adopt standing orders, policy statements and administrative directives, which need not be incorporated in these rules. Daily administration of the courts is conducted by the Court Executive Officer ("CEO") who reports to the Presiding Judge ("PJ").

[Adopted, effective January 1, 2000]

RULE 2.01 PRESIDING JUDGE AND ASSISTANT PRESIDING JUDGE

At a meeting of all the judges held not later than December 31st of every year, the Presiding Judge and Assistant Presiding Judge shall be selected and have authority as provided in the California Rules of Court and shall serve for a term of two (2) calendar years.

[Adopted, effective January 1, 2001]

RULE 2.02 COURT EXECUTIVE OFFICER

The administrative functions of the Court shall be directed by the CEO, who shall be selected by and serve at the pleasure of the Judges. The CEO shall perform those duties set forth by CRC 207 and as otherwise directed by the judges.

[Adopted, effective January 1, 2000]

RULE 2.03 COURT DIVISIONS

A. CRIMINAL DIVISION. Six judges, including four assigned to departments in the El Centro Court-house, and the judges assigned to Brawley and Calexico, shall annually be assigned to preside over both misdemeanor and felony matters. They, with support staff, comprise the criminal division of the Court. The judges shall annually designate a supervising judge of the criminal division ("SCJ"), who presides over the

felony master calendar department. The PJ may, but need not, serve as SCJ. (Refer to Chapter 12.)

B. CIVIL DIVISION. Three judges assigned to the Courthouse in El Centro shall be designed as the "civil team." They, along with support staff, comprise the civil division of the court.

Family Law and civil domestic violence matters, including morning OSC calendars, pre-trials and family law trials are assigned to the civil team member designated as "family law judge." The remaining two members of the civil team hear law and motion matters in civil cases. Said judges also preside over civil (jury and non-jury) trials. One civil team member is assigned the conservatorship calendar and one member is assigned the probate calendar. (Refer to Chapters 3-9.)

C. JUVENILE. The duly appointed juvenile court referee convenes on designated days to hear both dependency and delinquency matters at the juvenile department. A judge is designated a juvenile court judge to preside over juvenile matters which cannot be heard by the referee. Said judge, the referee and support staff comprise the juvenile division.

D. TRAFFIC. A duly appointed referee hears traffic matters at designated times at the El Centro, Brawley, Calexico and Winterhaven Courthouses.

E. SMALL CLAIMS. The referee also hears small claims cases at designated times at the El Centro, Brawley, Calexico and Winterhaven Courthouses.

F. APPELLATE. Judges comprising the Appellate Division of the Court are designated by the Chief Justice of the California Supreme Court in accordance with law. The appellate division has jurisdiction over appeals as specified by law and over other matters, as required by these rules. (Refer to Chapter 15.)

[Adopted, effective January 1, 2000]

RULE 2.04 SESSIONS OF COURT

Sessions of the Court shall be held at the El Centro Court-house and at the Courthouses in Brawley, Calexico and Winterhaven. Additionally, the Court holds sessions at the Juvenile Court (located at the Probation Department) and at the Jail Court (located at the Sheriff's Office/Jail Complex.)

[Adopted, effective January 1, 2000]

RULE 2.05 DEPARTMENTS OF THE COURT

Each judge is assigned to a specified department located in one of the court facilities referenced above. The departments of the Court shall be designated as follows: "1", "2", "3", "4", "5", "6", "7", "8", "9", "Brawley", "Calexico", "Jail", "Juvenile" and "Winterhaven". Departments 1 through 9 are located in the Courthouse in El Centro.

[Adopted, effective July 1, 2001]

RULE 2.06 FILINGS AND CALENDARING

A. Rules governing civil filings and calendaring are contained in Chapters 3 through 11. Rules governing criminal filings and calendaring are contained in Chapter 12.

B. (1) A paper presented for filing on the court day prior to a scheduled law and motion matter will be accepted for filing by the clerk, but will not be placed in the court file prior to the hearing. It shall be the responsibility of the party, offering the paper to ensure that the judge hearing the motion is provided with a copy of the paper.

(2) This rule shall not limit the discretion of the court to refuse to consider any late-filed paper pursuant to California Rules of Court, Rule 317(d).

[Adopted, effective July 1, 2003]

RULE 2.07 INTRA-COUNTY VENUE

A. CIVIL

For purposes of intra-county venue the County is divided

into the Brawley, Calexico, El Centro, and Winterhaven "areas". Limited civil and small claims actions are filed (and small claims cases are tried) in the corresponding court for which venue would be appropriate were the areas regarded as separate counties. Such determination shall be made in accordance with civil venue law. For the purposes of this rule, the Brawley area is defined as that portion of the County of Imperial lying North of Keystone Road; the Calexico area is defined as the portion of the County of Imperial lying South of Heber Road. The El Centro area is the portion of the County of Imperial lying North of Heber Road, and South of Keystone Road. The Winterhaven area is the portion of the County of Imperial lying East of the intersection of Interstate 8 and State Route 98. (Refer to Chapter 3.)

B. CRIMINAL

Where a misdemeanor has been allegedly committed in one of the aforesaid areas, venue for purposes of out-of-custody misdemeanor arraignments (and other misdemeanor proceedings) shall be in the corresponding court. (Refer to Chapter 12.)

[Adopted, effective January 1, 2000]

RULE 2.08 COURT OFFICES

A. CEO: In addition to duties referenced in Rule 2.02, the CEO serves as clerk to the court and jury commissioner.

B. Clerk's Offices:

(1) A clerk's office is located at the El Centro, Brawley, Calexico, and Winterhaven Courthouses, at the Jail Court and at the Juvenile Court.

(a) The El Centro Clerk's Office will include: the General Civil Section (including family law, probate and small claims) cases and personnel; the Appeals Section (including cases appealed to the Court of Appeal, cases appealed to the Appellate Division and Small Claims Appeals and personnel assigned thereto; and the Criminal Section (including felony and misdemeanor files and personnel assigned thereto).

(b) The Juvenile Section (including courtroom, files and personnel is located at 324 Applestill Road (Probation Department), El Centro, California.

(c) The Traffic Section (including case files, records and personnel) is located at the El Centro Courthouse.

(d) The Brawley Courthouse will include: Limited civil filings, small claims, criminal misdemeanors and traffic filings and personnel assigned thereto.

(e) The Calexico Courthouse will include: Limited civil flings, small claims filings, criminal misdemeanors and traffic filings and personnel assigned thereto.

(f) The Winterhaven Courthouse will include: Small claims filings and traffic filings. Criminal misdemeanor matters are to be filed and heard at the Calexico Courthouse.

(g) The Jail Court will include: Misdemeanor complaints involving in-custody defendants and all felony complaints are filed at the Jail Court.

C. Court Services Supervisor: A list of all active cases and filing information is maintained by the Calendar Coordinator, who is responsible for calendaring all pre-trial matters pertaining to those cases for trial.[2] Additionally, the Court Service Supervisor receives and schedules requests for ex parte hearings.

The Court Services Supervisor will maintain a list of all Court Interpreters and Court Reporters and is responsible for scheduling all Court Interpreters and Court Reporters.

[2] As referenced in Chapter 12, misdemeanor matters are calendared by either the Jail Court Clerk's Office, the Criminal Section of the Clerk's Office in El Centro, or by the Clerk's Offices at the Brawley Courthouse or the Calexico Courthouse.

D. Paralegal: In addition to serving as probate examiner and small claims advisor, the Paralegal prepares statements of decision and other orders and correspondence at the request of individual judges. The Paralegal also reviews and processes each at issue memorandum filed in general civil cases and processes cases referred to judicial arbitration.

[Adopted, effective January 1, 2004]

RULE 2.09 COURT SECURITY

A. Notwithstanding any provision of law, no person may possess a weapon while in a court building, including, but not limited to, guns, knives or pepper spray, except the following:

(1) Bailiffs and correctional officers while in the discharge of their official duties.
(2) Judges and authorized court personnel.
(3) Law enforcement and correctional officers, employed by a Federal, State, County, or local jurisdictions.

B. A person authorized pursuant to Rule A shall not possess a weapon while in a court building if he or she or a member of his or her immediate family is a party to an action or proceeding pending before the court to be heard that day.

C. Witnesses authorized pursuant to Rule A shall immediately upon entering a courtroom declare to the bailiff or other person in charge of security, his or her possession of such weapon and shall surrender such weapon for inspection and/or safekeeping, at the discretion of the bailiff, or other person in charge of security, or the judge.

D. All persons entering the court building, except those persons authorized pursuant to A.(1) and (2) above, shall submit to a search of their person, purpose, briefcase, backpack or other container capable of concealing a weapon. Unless required by law, a person may refuse to submit to a search in which case he or she shall immediately leave the court building.

E. A violation of this rule may be punished as contempt and may result in imprisonment, a fine, or both.

[Adopted, effective January 1, 2000]

CHAPTER 3

GENERAL CIVIL POLICIES AND PROCEDUES

RULE 3.00 POLICY

It is the policy of the Court to manage cases in accordance with Sections 2.1 and 2.3 of the Standards of Judicial Administration contained in the Appendix to CRC. Nothing shall prevent the Court from issuing exceptions based on a specific finding that the interests of justice require the same. However, no procedure or deadline established by these rules or order of the Court may be modified, extended or avoided by stipulation or agreement of the parties, except as permitted b Section 68616 of the Government Code, unless approved by the Court in advance of the date sought to be altered.

[Adopted, effective January 1, 2000]

RULE 3.01 FILINGS

General civil cases are filed in the Clerk's Office at the El Centro Courthouse. Limited civil cases are either filed in the Clerk's Office in the El Centro Courthouse or at the Brawley or Calexico Courthouses, depending on intra-county venue. (Refer to Rule 2.07)

[Adopted, effective January 1, 2000]

RULE 3.02 CASE CATEGORY (AND LIMITED CIVIL DESIGNATION)

Pursuant to the CRC 982.2, all civil cases shall be accompanied by a civil case cover sheet. The case category shall be set forth on the face of the complaint. Limited civil cases shall be designated as required by law.

[Adopted, effective January 1, 2000]

RULE 3.03 PLEADINGS

A. Complaints, Petitions and Other First Papers: Each cause of action or count pleaded in a complaint, petition, or other first paper seeking affirmative relief shall be headed so

as to identify briefly the nature of the claim asserted therein, and shall specifically identify the defendants affected by such cause of action or count.

B. Forms: Only the most recent version of a court form or Judicial Council form will be accepted for filing. Photocopies or computer generated duplicates of Judicial Council and local court forms may be used only if the copies are clear, legible, the same color as the original, and submitted on the same type of paper (e.g., NCR).

C. Conformed Copies: The court will conform only one copy of each original submitted for filing. If conformed copies are to be returned by mail or messenger, a stamped, self-addressed envelope or messenger slip must be included.

[Adopted, effective January 1, 2000]

RULE 3.04 CASE ASSIGNMENT AND DIRECT CALENDARING

At the time a civil action is filed, the clerk will, pursuant to authority of the Presiding Judge, assign it to a civil team judge for all purposes. The name of the judge to whom the case is assigned shall be stamped or otherwise noted on the first paper (and any conformed copies) by the clerk. Thereafter, it shall be the duty of the parties to ensure that all subsequently filed papers bear the name of the assigned judge on the first page immediately to the right of the caption.

[Adopted, effective January 1, 2000]

RULE 3.04.1 PEREMPTORY CHALLENGES

A. By reason of the immediate direct calendar assignment of a judge for all purposes in general civil cases, any challenge pursuant to Code of Civil Procedure Section 170.6 must be exercised within fifteen (15) days of the challenging party's first appearance, e.g., a plaintiff's challenge is due within fifteen (15) days of the date the first paper is filed and a defendant's challenge is due no more than fifteen (15) days after the challenging

defendant's first general appearance. (Refer to Government Code Section 68616.)

B. If a directly calendared case is reassigned to another judge for all purposes (and the party has not therefore exercised a challenge under CCP 170.6), the challenge must be made within ten (10) days after the notice of reassignment.

C. If a directly calendared case is reassigned to another judge for trial, the challenge must be exercised at the time the trial judge is identified.

D. Where a judge, court commissioner, or referee other than the judge assigned for all purposes is assigned to or scheduled to try a cause or hear a matter and is known or is easily ascertainable at least ten (10) days before the date set for hearing or trial, any challenges pursuant to Section 170.6 of the Code of Civil Procedure must be made at least five (5) days before that date. If the challenge is directed to the trial of a cause where there is a master calendar, the challenge shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial.

E. In the case of trials or hearings not specifically provided for above, the procedures of Section 170.6 of the Code of Civil Procedure shall be followed as nearly as possible.

[Adopted, effective January 1, 2000]

RULE 3.05 SERVICE OF COMPLAINT

A. Unless otherwise required by law, within sixty (60) calendar days of the date of this filing, the complaint must be served on all named defendants and a proof of service filed with the court. Any party seeking relief from the aforesaid requirement must appear before the sixtieth (60^{th}) day, ex parte, with a written declaration setting forth good cause why this time period should be extended.

B. If service by publication or some other method of service is required which cannot be completed within sixty (60) days of the filing of the complaint, the last paragraph of the proposed order permitting such service

shall contain a blank space for the court to specify the date by which a proof of service and/or a certificate of service must be filed.

C. Proofs of service must be signed by the person who actually accomplished the service. Where forms of service involve more than one component, declarations must be signed by each person completing a component. For example, substituted service of summons is often accomplished by one person doing the substituted service in the filed while another completes the service by mailing the copies to the named defendant. In that case, declarations must be signed by each.

[Adopted, effective January 1, 2000]

RULE 3.06 RESERVED

RULE 3.07 DEFENDANT'S APPEARANCE

Unless a special appearance is made, each defendant served shall generally appear (as defined in Section 1014 of the Code of Civil Procedure) within the time required by the Code of Civil Procedure, or within fifteen (15) days thereafter if the parties have stipulated to extend that time. Such stipulations must be in writing and filed with the Court. An enlargement of the time limit stated herein may be granted by the Court for good cause shown.

[Adopted, effective January 1, 2000]

RULE 3.08 REQUEST FOR ENTRY OF DEFAULT

If a defendant does not make a general appearance within the time provided by statute, or makes an unsuccessful motion to quash, stay or dismiss the action on the grounds of inconvenient forum or improper court, and thereafter fails to plead within the time provided by statute or in these rules, the plaintiff shall request entry of default forthwith.

[Adopted, effective January 1, 2000]

RULE 3.09 DEFAULT JUDGMENTS

If a default is entered and there are no other appearing defendants in the case, the plaintiff must apply for a default judgment within sixty (60) calendar days of the date of entry of default. If other defendants remain in the action, applications for default judgment should be deferred until the time of trial.

Applications for default judgment should be submitted on declarations pursuant to Section 585(d) of the Code of Civil Procedure, (See "Guidelines for Default Judgments" attached as Appendix A1.) The Court will notify the parties if an oral prove-up hearing or additional documentary evidence is required. (Refer to Rule 10.08 for Default Attorney Fee Schedule.)

[Adopted, effective January 1, 2000]

RULE 3.10 CASE MANAGEMENT CONFERENCE

In every case which has not been placed on the civil active list within one hundred eighty (180) days of the filing of the complaint or other first paper, a case management conference will be held. Notice of the time and date of the conference shall be given by the Calendar Coordinator at the direction of the Court.

Any party may, upon notice, move the Court for the setting of a case management conference prior to the expiration of one hundred eighty (180) days from the filing of the case, or after the case has been placed on the civil active list, if the party contends that a case management conference would facilitate the expeditious preparation of the matter for trial.

Upon the filing of any case defined as a "general civil case" by California Rules of Court, Rule 207, a case management conference will be scheduled by the court pursuant to California Rules of Court, Rule 212. Notice of the case management conference will be delivered to the plaintiff upon the filing of the complaint.

A copy of the notice referred to herein shall be served with any complaint, amended complaint, cross-complaint,

or amended cross-complaint, and proof of service thereof filed with the court.

[Adopted, effective January 1, 2003]

RULE 3.11 CIVIL ACTIVE LIST

Either party may cause a case not defined as a "general civil case" to be placed on the civil active list by filing an at issue memorandum as soon as all parties have answered or had their defaults taken. The Court may deem a case is at issue and place the case on the civil active list when all parties are before the Court and challenges to pleadings are complete (or when the deadlines set by the Court for the completion of these events have passed.)

Unless the Court orders otherwise, all amendments to pleadings allowed after the case is on the civil active list will be deemed filed and served on the date leave to amend is granted. If the amendment adds a new party, the new party shall be served within thirty (30) days of the date leave to amend was granted and the proof of service on the new party must be filed with the Court. Cross-complaints filed after the case if placed on the civil active list must also be served within thirty (30) days of filing. Upon the appearance of a new party, the case will remain on the civil active list, unless otherwise ordered. If the new party is not timely served with process, the new party may, on the Court's own motion upon notice, be dismissed by the Court.

In any case covered by this rule, if an at-issue memorandum is not filed within 180 days of the filing of the action, the Court may set a case management conference, in which event the case shall proceed under the rules applicable to general civil cases.

[Adopted, effective January 1, 2003]

RULE 3.12 EXPERT WITNESSES

Excessive expert fees may limit access to the courts and undermining the quality of justice. Accordingly, it is

the policy of the Court that, in addition to the criteria to Section 2034, subdivision (I)(4), of the Code of Civil Procedure, the Court will consider the ordinary and customary fees charged by similar experts for similar services within the relevant community. Based on the collective experience of the courts, the following hourly rates appear to be representative of the ordinary and customary fees charged for expert testimony in this community:

$250 Physicians, osteopaths, surgeons, dentists and psychiatrists
$250 Attorneys
$200 Psychologists
$200 Economists
$200 Engineers, architects
$150 Chiropractors

Parties will be permitted to designate only those experts they in fact intend to call at trial. It is the policy of the Court that parties are limited to one expert per field of expertise per side, pursuant to Section 723 of the Evidence Code, absent a court order to the contrary. The Court will determine which parties constitute "a side" at trial, if necessary.

Expert testimony shall not be used simply to advocate a particular position; and, shall be limited in scope, in accordance with Evidence Code Section 801(a) to opinions on subjects which are sufficiently beyond common experience that an expert's opinion will assist the trier of fact.
[Adopted, effective January 1, 2000]

RULE 3.13 JURY FEES

Any jury fee deposit shall be accompanied by a notice of jury fee deposit, which shall be served on all parties. Failure to timely deposit jury fees may constitute a waiver of the right to a jury.

[Adopted, effective January 1, 2000]

RULE 3.14 STAYS OF ACTIONS

If a party files a notice of stay in accordance with the CRC 225(d) or 525(d), the Court may either stay the

action or set the matter for hearing. At the time of hearing, the Court may propose dismissing the action without prejudice, and reserving jurisdiction to reinstate the case nunc pro tunc when the stay is no longer in effect. If the Court stays an action without setting the matter for hearing, any party who claims to be exempt from the stay and who seeks to prosecute the action further shall object by noticed motion in the stayed action.

Upon the expiration of the stay period, an action may be dismissed unless good cause has previously been shown, in writing, to the contrary. The stay may be extended for additional periods for good cause shown.

[Adopted, effective January 1, 2000]

RULE 3.15 STRUCTURED/CONDITIONAL SETTLEMENTS

Upon conditional settlement of a case, the parties are required to entitle the settlement agreement "Conditional Settlement and Dismissal" and include a stipulation for the immediate dismissal of the action without prejudice, reserving the Court's power to set aside the dismissal and order entry of judgment upon a showing of default in the specified terms of the agreement. Exceptions may be advisable in cases where a lump sum payment is made to a third party who thereafter assumes responsibility for future payments. The Court reserves jurisdiction to enter a dismissal with prejudice following the entry of a dismissal without prejudice upon request by the appropriate party.

[Adopted, effective January 1, 2000]

RULE 3.16 RESERVED

RULE 3.17 JURY INSTRUCTIONS

On the scheduled trial date, the parties shall submit the full text of proposed jury instructions to the Court. Jury instructions shall be gender neutral and double-spaced on plain paper. They may include BAJI numbers, but the mere submission of a list of BAJI numbers is not acceptable. Authority may be included on copies of special instructions submitted to the Court, but should not appear on the originals.

[Adopted, effective January 1, 2000]

RULE 3.18 JUROR QUESTIONNAIRES

If the parties wish to use juror questionnaires, the questionnaires must be submitted to the Court for review two (2) court days prior to the trial.

[Adopted, effective January 1, 2000]

RULE 3.19 MOTIONS IN LIMINE

In limine motions must be submitted to the Court at least five (5) court days before trial. The following motions will be automatically granted and need not be put in writing: (1) in limine motions to exclude evidence of a collateral source, (2) motions to exclude evidence of (or mention of) insurance coverage; and, (3) motion to exclude offers to settle and/or settlement discussions.

[Adopted, effective January 1, 2003]

RULE 3.20 TAKING TRIAL OFF CALENDAR

If the plaintiff determines to take a trial off calendar, the remaining parties need to be contacted in person or telephonically as soon as possible after the determination is made. Trials may be taken off calendar if: (1) there are no unrepresented litigants; (2) all unserved parties or parties not participating in settlement will be dismissed; and (3) all parties agree the case has been settled in its entirety and that dismissals or judgments will be filed within forty-five (45) days.

If one or more of the above conditions is not met, the trial will not go off calendar without an order of the Court.

[Adopted, effective January 1, 2000]

RULE 3.21 TRIAL CALL

All parties shall be prepared to proceed to trial on the date of the scheduled trial.

Adopted, effective January 1, 2000]

RULE 3.22 POST TRIAL

In matters tried to the Court without a jury, within thirty (30) days after the Court awards judgment, the prevailing party (or the party designated by the Court) shall file the judgment with the Court.

[Adopted, effective January 1, 2000]

RULE 3.23 STAY OF EXECUTION PENDING NEW TRIAL MOTION

Only the trial judge may order an ex parte stay of execution pending the determination of a motion for new trial. If the trial judge is not available, the application shall be made to the presiding judge. (Refer to Chapter 5.)

[Adopted, effective January 1, 2000]

RULE 3.24 JUDGMENT PURSUANT TO STIPULATION

All ex parte applications for judgment pursuant to stipulation shall state the type of case, date of filing of original complaint,

whether the proposed judgment is fully dipositive of the case, and must include a copy of the signed stipulation. (Refer to Chapter 5.)

[Adopted, effective January 1, 2000]

RULE 3.25 SANCTIONS

Noncompliance with the rules under Chapter 3 may result in imposition of sanctions as provided by law. If a show cause hearing regarding sanctions and/or dismissal, default, or trial setting has been calendared as a result of failure of a party to file the proper document, the party may avoid appearing at the scheduled show cause hearing by filing the proper document and paying the sanction specified in the notice no later than five (5) court days prior to the calendared show cause hearing.

[Adopted, effective January 1, 2000]

CHAPTER 4

CIVIL LAW AND MOTION

RULE 4.00 SETTING PROCEDURES

Civil law and motion matters may be heard Monday through Friday at 8:30 a.m. at the El Centro Courthouse, unless otherwise directed by the Court. The moving party shall set the date of law and motion matters by specification in the notice of motion in accordance with law. The Court may reschedule such matters to accommodate workload, if necessary.

[Adopted, effective January 1, 2000]

RULE 4.01 ORDERS SHORTENING TIME

An applicant must be prepared to file all moving papers and pay appropriate fees at the time a request is made for an order shortening time. All orders shortening time shall contain a complete briefing schedule, including the date and time for filing, opposition, reply (if any), and proofs of service, as well as the time and manner of service of all motion papers.

Moving papers shall be filed, together with appropriate fees, the same day the order shortening time is granted, and all papers (moving, opposition, and reply) shall be personally served the day the papers are filed with the court, unless otherwise ordered.

[Adopted, effective January 1, 2000]

RULE 4.02 ASSIGNED JUDGE

All motions in cases assigned to a judge for all purposes shall be heard by the assigned judge, or his or her designee, unless otherwise specified. Post trial motions shall be heard by the trial judge (e.g., motions for new trial, to tax costs, or determine attorney's fees). Motions pertaining to the execution enforcement of a judgment may also be heard by the assigned direct calendar judge, unless otherwise ordered.

[Adopted, effective January 1, 2000]

RULE 4.03 PROOF OF SERVICE OF NOTICE OF MOTION

Except for petitions to enjoin harassment and orders to examine judgment debtors, all matters for which proof of service has not been filed in accordance with the CRC 317(b), or an order shortening time, if any, will be ordered off calendar unless opposition papers contesting the merits of the motion have been timely filed.

[Adopted, effective January 1, 2000]

RULE 4.04 CONTINUING LAW AND MOTION MATTERS

In the Court's discretion, law and motion matters may be continued by the moving party by telephoning the court at least five (5) court days before the hearing, or by written stipulation of the parties filed at least five (5) court days before the hearing. The Court will set a new date. The moving party shall notify all parties of the new date in writing and a copy shall be filed with the Court. No notice of continuance of a law and motion matter will be mailed by the clerk, unless ordered.

[Adopted, effective January 1, 2000]

RULE 4.05 TAKING MOTIONS OFF CALENDAR

The moving party shall promptly notify the court if a matter will not be heard on the scheduled date. Failure to so notify the court at least five (5) court days before the hearing date for any reason other than settlement of the case in its entirety or resolution of the issue may be deemed by the Court to be a violation of an order of the Court, punishable by monetary sanctions payment to the county under Section 177.5 of the Code of Civil Procedure, as well as any other sanction provided by law.

With regard to motions to compel discovery responses, parties shall notify the court within twenty-four (24) hours of receipt of responses that make the motion moot. Failure to do so constitutes a waiver of sanctions sought in conjunction with the motion to compel discovery.

If, in the face of a demurrer, motion to strike or motion for judgment on the pleadings, an amended pleading is

properly filed which makes the demurrer or motion moot, the demurring or moving party should so notify the court within twenty-four (24) hours of receipt of the amendment. Failure to do so may constitute a waiver of any right to seek sanctions.

[Adopted, effective January 1, 2000]

RULE 4.06 SEPARATE MOTION REQUIREMENT

Every motion must be filed separately, except when filing a motion for summary judgment accompanied by a motion for summary adjudication, in which event the summary adjudication motion may be contained in the same document as the motion for summary judgment.

Discovery motions to compel further responses are subject to this requirement and must be filed separately. However, discovery motions to compel in which there has been no response to the discovery request may be combined if they involve the same legal and factual issues.

Requests for sanctions and stays are not considered "separate motions" when they are ancillary to another motion, except as otherwise required by statute. A request for dismissal is not considered a separate motion when combined with a motion for good faith settlement. However, such "combined" motions are subject to the length restrictions imposed by the CRC 313(d), for single motions.

Opposition and/or reply papers to separate motions may not be combined.

[Adopted, effective January 1, 2000]

RULE 4.07 JOINDERS

For purposes of this section, a joinder is defined as an application by a party to a case, or a party who is not the moving or opposing party in a motion, to be included within the relief granted by the Court on the motion. Joinders in a motion, opposition, or reply must be filed and personally served within two days after service of papers to which the joinder relates.

A joinder should include a brief statement of why the

joining party is in the same position as a moving or opposing party. A joinder may not include separate points and authorities or evidence, but will be deemed to incorporate the arguments and evidence submitted in connection with the motion, opposition, or reply to which the joinder relates. If such additional materials are necessary for the Court to grant the requested relief in favor of the party seeking to join in the motion or opposition, a separate motion, opposition, or reply must be filed.

A joinder in a motion does not relieve a party of its individual burden to establish separate entitlement to the relief sought by the moving party, nor does it entitle the joining party to file a reply separate from that filed by the moving party, but the joining party may join in the reply. The proper response to an improper joinder shall be by objection.

[Adopted, effective January 1, 2000]

RULE 4.08 NO LIVE TESTIMONY WITHOUT COURT ORDER

Any party seeking to present live testimony at a hearing on a motion shall fully comply with California Rules of Court, Rule 323. No live testimony may be presented in connection with a civil law and motion matter without an order being issued by the Court prior to the hearing date.

[Adopted, effective January 1, 2000]

RULE 4.09 EVIDENTIARY OBJECTIONS

A party seeking to object to evidence offered in support of, or in opposition to, any motion shall either submit objections in writing, or orally at the hearing prior to submission of the matter for decision. Any written objection shall be contained in a separate document, state the page and line number of the document to which objection is made, and state the grounds of objection, with the same specificity as a motion to strike evidence made at trial. Such written objections shall be filed and personally served no later than the close of business three (3) court days before the hearing.

[Adopted, effective January 1, 2000]

RULE 4.10 PARTICULAR MOTIONS

A. TRO's, stay orders, and receivers: In any case where a bond or undertaking may be considered or is requested, a declaration must be submitted setting forth facts bearing on the amount of probable damage, from which the Court may determine the appropriate amount of bond or undertaking. Failure to timely file such a declaration may result in a denial of the relief being sought.

B. Consolidation Motions: Consolidation motions shall be noticed for hearing in the department in which the earliest filed case is pending, absent a court order to the contrary. Whenever an order of consolidation of cases for all purposes is made, the Court shall designate one of the consolidated cases the master file/lead case and the originals of all papers thereafter filed shall be placed in the master file/lead case. Any hearing date in any case other than the lead case shall be vacated. The order for consolidation shall, on a separate page, list all case numbers and associated parties and their counsel, if any.

If more than two cases are consolidated and the lead case is settled or dismissed, the consolidated cases will be noticed for dismissal in forty-five (45) days unless the parties appear ex parte for the court to reactivate the consolidated cases and designate a new lead case.

After an order of consolidation for all purposes is made, all hearing dates thereafter will be noticed under the lead case number. The clerk shall give notice to all parties in all cases of any hearing dates thereafter set. For purposes of this rule, "hearing dates" shall include dates set for a case management conference, trial readiness conference, settlement conference, trial, or order to appear.

C. Motions Requiring Separate Statements: The following motions shall include a separate

statement identifying the elements of the various causes of action set forth in the complaint and setting forth evidence in support of each element:

1. **Claim for punitive damages against health care provider (Section 425.13 of the Code of Civil Procedure);**
2. **Claim for punitive damages against religious corporation (Section 425.14 of the Code of Civil Procedure);**
3. **Claim against volunteer director or officer of nonprofit corporation (Section 425.15 of the Code of Civil Procedure);**
4. **Opposing motions to strike in SLAPP suits (Section 425.16 of the Code of Civil Procedure);**
5. **Protective orders (Section 3295 of the Civil Code) (prima facie evidence of liability for punitive damages).**

The separate statement shall be in the form set forth in the CRC 342.

D. Motions to Amend Pleadings: When filing a motion to amend a pleading or for leave to file a cross-complaint, the original signed proposed pleading shall be lodged with the Court when the moving papers are filed. If leave is granted, the proposed pleading will be filed by the Court and deemed served on all appearing parties as of the date of this ruling. All defaulted parties must be served with the amended pleading.

E. Motions to Quash Service: If a party wishes to proceed against a defendant who prevailed on a motion to quash service on grounds of procedural defects in the manner of service (rather than jurisdictional defects), the party shall re-serve that defendant within fifteen (15) days of the court's order, unless otherwise ordered. Failure to comply with this new rule may result in dismissal of the new party, as well as any other sanction permitted by law.

F. Motions to Tax Costs: When filing a motion to tax costs pursuant to CRC 870, a copy of the challenged cost memorandum must be lodged with

the court when the moving papers are filed.

G. Requests for Sanctions: When monetary sanctions are sought, a declaration must be submitted setting forth the nature of the work done, the time expended, and the sum deemed to be a reasonable hourly rate for the services performed.

H. Good Faith Settlement Motions: The following language should be utilized in any formal order granting a good faith settlement motion; "The [unopposed] motion for good faith settlement [and dismissal] filed by [name of party] is granted pursuant to Section 877.6 of the Code of Civil Procedure, this determination bars any other joint tortfeasor or co-obligor from any further claims against the settling parties for equitable comparative contribution or partial or comparative indemnity based on comparative negligence or comparative fault."

If a concurrent motion for dismissal has been properly noticed, the following should be added to the order: "All cross-complaints for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault against the settling tortfeasor or co-obligor are hereby dismissed."

[Adopted, effective January 1, 2000]

RULE 4.11 REQUESTS FOR JUDICIAL NOTICE

Documents requested to be judicially noticed which are required to be provided to the Court by Rule 323(b) of California Rules of Court, shall be lodged with the Court in accordance with California Rules of Court, Rule 319.

[Adopted, effective January 1, 2000]

RULE 4.12 CITATIONS TO CASES

Authorities required to be provided to the Court by CRC 313(e) of the California Rules of Court shall be lodged with the court and shall not be attached as exhibits.

[Adopted, effective January 1, 2000]

RULE 4.13 CITATIONS TO LEGISLATION

Authorities required to be provided to the court by CRC 313(e) shall be lodged with the court and shall not be attached as exhibits.

[Adopted, effective January 1, 2000]

RULE 4.14 RESERVED

RULE 4.15 OPPOSING AND REPLY PAPERS

Reply papers shall be served in such a manner as to assure receipt by the opposing party by the close of business on the date such papers are filed or lodged with the Court. Fax service of opposition and reply papers is only permitted upon prior agreement of the parties as specified in CRC 2008 or with prior court approval. When service is by mail or fax, the proof of service has not been executed by the time the document is filed, the executed proof of service shall be filed within three (3) days after service has been completed, except a proof of personal service of reply papers shall be brought to the hearing and filed at that time.

Failure to serve and file written opposition may be deemed a waiver of any objections and an admission that the motion, demurrer, or petition is meritorious.

[Adopted, effective January 1, 2000]

RULE 4.16 CONDUCT OF HEARING

Parties who wish to submit matters without being personally present at the hearing shall notify opposing counsel and the clerk prior to the date and time set for such matters. Failure to appear or to notify the clerk shall be deemed cause for ordering such matters off calendar or for ruling in the absence of the parties.

A party who has not timely filed and served written opposition to a motion, demurrer, or petition may not present oral argument, unless authorized by the court.

[Adopted, effective January 1, 2000]

RULE 4.17 TENTATIVE RULINGS

Tentative rulings on civil law and motion matters may (but need not) be available on the day of the hearing.

[Adopted, effective January 1, 2000]

RULE 4.18 ORDERS AFTER HEARING

If the Court requires a formal order after hearing, the prevailing party shall prepare and submit to the court a proposed order in accordance with the CRC 391. Such orders shall refer to all matters covered by the Court, shall affirmatively state the result or relief, and shall specify if the ruling disposes of the entire case as to all parties. The introductory paragraph shall include the subject of the motion, demurrer, or petition, the date, time, department number, judge's name, and names of the parties and attorneys who appeared. The order shall set forth all relief granted, including the Court's stated reasons as well as the statutory grounds for the ruling, and shall not require reference to other documents.

[Adopted, effective January 1, 2000]

CHAPTER 5

EX PARTE RELIEF

RULE 5.00 POLICY

It is the policy of the Court to discourage unnecessary ex parte orders which affect substantial rights of the parties. Therefore, whenever reasonable or practical, counsel are encouraged to use procedures which postpone immediate relief to a time noticed for a contested hearing on the merits by order to show cause or noticed motion.

[Adopted, effective January 1, 2000]

RULE 5.01 FILING FEES, CASE NUMBER AND HEARING DATE.

Filing fees must be paid, or an application for fee waiver must be granted, before an application for ex parte relief will be heard. All documents in support of an ex parte application must be filed twenty-four (24) hours prior to the time for hearing.

[Adopted, effective January 1, 2001]

RULE 5.02 RESERVATION PROCEDURE

Request for ex parte relief in civil cases assigned to a judge for all purposes will be heard by the judge so assigned by reservation only. Reservations shall be made by calling the Calendar Coordinator at least twenty-four (24) hours in advance. All other ex parte matters will be heard in the manner and at times ordered by the presiding judge.

[Adopted, effective January 1, 2000]

RULE 5.03 NOTICE

The party seeking an ex parte order must notify all parties no later than 10 a.m., the court day before the ex parte appearance of the time and place that such application will be made pursuant to CRC 379. The party shall explain to the court the efforts that have been made to give this informal notice, or the reason supporting the claim that notice should not be required. The notice required by this rule may be dispensed with

when it reasonably appears to the Court that the safety or physical well-being of any person or persons may be adversely affected by the giving of such notice.

[Adopted, effective January 1, 2000]

RULE 5.04 EX PARTE ORDERS

Any order, judgment, or decree made by a judge ex parte must be in writing, signed by the judge, and filed and served within two (2) days thereafter or it may be voidable.

[Adopted, effective January 1, 2000]

CHAPTER 6

EXTRAORDINARY WRITS

RULE 6.00 PROCEDURE

In seeking mandamus or prohibition relief, it is not necessary to obtain an alternative writ. A noticed motion procedure should be used whenever possible. If an alternative writ is sought in the first instance, the petition must be filed, fees paid and a judge assigned. Petitioner must then follow procedures set forth in Chapter 5 in seeking issuance of an alternative writ of OSC.

[Adopted, effective January 1, 2000]

RULE 6.01 ASSIGNMENT

A. Extraordinary civil writs (and ex parte applications in connection therewith) will be assigned in accordance with the direct calendaring system established by these rules, except as hereinafter indicated.

B. Petitions for writs of habeas corpus or mandamus by inmates directed at county jail or state prison officials, will be assigned to the Supervising Criminal Judge (SCJ).

C. Where an application for extraordinary relief challenges a decision made by a judge to whom a case has been earlier assigned, the matte shall be assigned in accordance with the rules for the appellate division. (Refer to Chapter 15.)

[Adopted, effective January 1, 2000]

CHAPTER 7

ARBITRATION

RULE 7.00 JUDICIAL ARBITRATION

The Court elects to come within the provisions of Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure regarding judicial arbitration, as modified by these rules. CRC 1600 et seq. shall also have full force and effect unless otherwise indicated.

[Adopted, effective January 1, 2000]

RULE 7.01 ARBITRATION ADMINISTRATOR

The CEO is the arbitration administrator.

[Adopted, effective January 1, 2000]

RULE 7.02 CASES SUBMITTED TO ARBITRATION

All at issue civil actions will be submitted to arbitration if the amount in controversy in the opinion of the Court will not exceed $50,000, unless exempt. In general civil cases, the determination to submit the case to arbitration will occur at the case management conference. All limited civil cases will be submitted to arbitration when at issue unless exempted by state or local rule.

[Adopted, effective January 1, 2003]

RULE 7.03 LOCAL EXEMPTIONS

Matters exempt from arbitration are set forth in CCP Section 1141.11 and CRC 1600.5. Pursuant to these rules, the following categories of cases are also exempted from judicial arbitration:

A. Limited civil cases in which no jury trial is demanded and the estimated time for trial is one day or less;

B. Collection actions (i.e., cases primarily seeking money on an assigned claim.)

[Adopted, effective January 1, 2000]

RULE 7.04 CONDUCT OF ARBITRATION

At the time of the arbitration hearing, or at any other time designated by the arbitrator, each attorney shall, unless excused by the arbitrator submit the following:

- **A. Copies of any offered pleading, arranged chronologically and appropriately highlighted;**
- **B. Copies of any offered deposition transcript or record appropriately highlighted;**
- **C. An arbitration brief consisting of:**
  - **(1) A concise statement of facts;**
  - **(2) Legal and factual contentions of each party;**
  - **(3) A statement of damages sought to be awarded including the amount claimed, medical expenses, and property damage;**
  - **(4) Copies of medical reports and bills;**
  - **(5) Copies of appraisal/repair estimates; and**
  - **(6) Copies of repair bills.**

[Adopted, effective January 1, 2000]

RULE 7.05 TIME FOR ARBITRATION DECISION

If the arbitration award is not filed within ten (10) days after the arbitration hearing, or an extension of twenty (20) days is not granted pursuant to the CRC 1615(b), either party may notify the arbitration department. The arbitrator will then be requested to submit the award or appear before the judge who ordered the case to judicial arbitration to show cause why CRC Rule 1615(b) was not satisfied.

[Adopted, effective January 1, 2000]

RULE 7.06 RESERVED

RULE 7.07 SETTLEMENT CONFERENCES

A de novo settlement conference will be scheduled after

the filing of any request for trial de novo. The provisions of Rules 8.00-8.04 apply to de novo settlement conferences and will be strictly enforced. If a case does not settle at the settlement conference, the case may be ordered to trial on the next available date.

[Adopted, effective January 1, 2000]

RULE 7.08 WITHDRAWAL OF TRIAL DE NOVO REQUESTS

If a party has requested trial de novo, the request may be withdrawn by a written stipulation, signed by counsel for all parties appearing in the case, that the award may be ordered as a judgment. If a party requesting a trial de novo subsequently files a request for dismissal, such request for dismissal shall be deemed a withdrawal of the request for trial de novo, and the clerk shall enter judgment on the arbitration award forthwith, unless all parties have consented to the request for dismissal.

[Adopted, effective January 1, 2000]

RULE 7.09 PROHIBITION AGAINST POST-ARBITRATION DISCOVERY

Stipulations for post-arbitration discovery pursuant to Section 1141.24 of the Code of Civil Procedure will be recognized by the court, provided that no such stipulation shall modify, extend, or avoid any procedure or deadline established by these rules or order of the court.

[Adopted, effective January 1, 2000]

CHAPTER 8

SETTLEMENT CONFERENCES

RULE 8.00 GENERALLY

A mandatory settlement conference will be set by the court in all cases, except for non-jury civil cases expected to last no longer than one day. A settlement conference may also be jointly requested by al parties to an action at any time.

[Adopted, effective January 1, 2000]

RULE 8.01 ASSIGNMENT

The Calendar Coordinator may assign and notice a case for a settlement conference before a civil team judge who is not the judge otherwise assigned for all purposes.

[Adopted, effective January 1, 2000]

RULE 8.02 MANDATORY APPEARANCE AT SETTLEMENT CONFERENCE

All parties must be personally present at settlement conferences, unless excused. Claims adjusters for insured defendants, or right-of-way agents in condemnation proceedings, shall be present with complete authority to settle the case.

Counsel appearing on behalf of their clients shall be completely familiar with the case and possess complete authority to negotiate and settle. If a participant is not fully prepared or fails to participate in good faith, the Court may continue the hearing and/or impose sanctions against the offending party.

For good cause shown, a party or agent may be excused from attendance at such conferences provided such party or agent will be available by telephone during the conference. Unless excused by the Court, such requests shall be submitted to the Court in the form of a stipulation signed by all attorneys of record, or by ex parte telephonic appearance at least five (5) court days prior to the settlement conference.

[Adopted, effective January 1, 2000]

RULE 8.03 SETTLEMENT STATEMENTS/BRIEFS

Written statements of the position of each party shall be lodged with the settlement conference judge and served on all other parties five (5) court days prior to the settlement conference, unless otherwise ordered. If service is by mail, all papers must be mailed not less than ten (10) days before the court date.

Statements shall not exceed five (5) pages and shall include the necessary information to concisely support issues of liability and damages, including a settlement demand and offer, as well as an itemization of special and general damages, if applicable. Settlement conference statements shall not become a part of the file and will be discarded. Confidential matters may be brought to the attention of the settlement judge during the settlement conference.

[Adopted, effective January 1, 2000]

RULE 8.04 CONTINUANCES

If all sides to a case agree to continue the settlement conference, they should at the earliest possible date telephone the Calendar Coordinator to advise; and, the Court will typically set a new date convenient to the parties. Any opposed request to continue a settlement conference should be calendared as occurs with other continued motion matters.

[Adopted, effective January 1, 2000]

RULE 8.05 NOTIFICATION OF SETTLEMENT

If a case is settled, plaintiff should immediately give the court notice in writing and by phone or in person, if a hearing, conference, or trial date is imminent. Failure to so advise may subject counsel and/or a party to sanctions authorized by law.

[Adopted, effective January 1, 2000]

CHAPTER 9

SPECIAL CASE CATEGORIES

RULE 9.00 JUDGMENT DEBTOR EXAMINATIONS

A. **Setting Hearings: Judgment debtor examination dates are obtained by filing an original and two (2) copies of the order for appearance of the judgment debtor. (Conformed copies with the appearance date, time, and place will be returned to the judgment creditor for service.)**

B. **Proof of Service: Proof of service must be filed no later than five (5) days before the date of the hearing. However, if the person ordered to appear does appear and is ready to proceed, the examination shall be conducted, with or without proof of service having been timely filed, at the discretion of the Court.**

C. **Appearance at Examination: Upon the call of the calendar, if the parties appear the examination must proceed at once, unless a continuance is ordered by the Court. If the person ordered to appear does appear and the moving party fails to appear, the proceedings may, at the discretion of the Court, be continued to another day or be dismissed, with such additional orders as are appropriate. Appropriate orders include, without limitation, an order that no future order shall issue as to the person who did appear except upon a showing of a new facts and a satisfactory explanation being made to the Court for the moving party's failure to appear.**

D. **Nonappearance of Party to be Examined: If the party to be examined fails to appear at the time and place set for examination, a bench warrant may issue requiring attendance forthwith, provided the moving party complies with subdivision "E" of this rule within thirty (30) days after the examination date.**

E. **Bench Warrants of Attachment: If a judgment debtor fails to appear for hearing as ordered, the judgment creditor requests a bench warrant of attachment, and the Court orders a bench warrant of attachment, the judgment creditor must file with the clerk the following items**

before the bench warrant of attachment shall issue:

1. **Sheriff's instructions, fully completed, stating the location where the defendant may be served (forms available in sheriff's office, original only required);**
2. **Check made payable to the "Sheriff of Imperial County" for service fees; and,**
3. **A bench warrant of attachment form.**

The above documents shall be filed within thirty (30) days of the order directing or granting the issuance of the bench warrant of attachment. If the documents are not filed within thirty (30) days following the order for issuance of the bench warrant of attachment, the moving party must apply to the Court for an order for appearance of judgment debtor.

F. Continuances: One or more continuances of a judgment debtor examination may be allowed upon stipulation of all parties or their attorneys, joined in by the person or entity ordered to appear and approved by the Court, or upon good cause shown.

[Adopted, effective January 1, 2000]

RULE 9.01 UNLAWFUL DETAINER PROCEEDINGS

A. Case Management: Within forty-five (45) days of filing the complaint, the plaintiff shall do one of the following:

1. **Request that the case be set for trial;**
2. **Re-designate the case as a general civil matter because possession is no longer in issue (Section 1952.3 of the Civil Code) and the case is not entitled to precedence (Section 1179a of the Code of Civil Procedure);**
3. **File a conditional settlement.**

There will be no case management conference in unlawful detainer cases, unless specifically set by order of the Court.

B. Trial Setting: At-issue memoranda are required in unlawful detainer proceedings pursuant to

the CRC 507.

C. Judgment for Money Damages after Judgment for Possession of the Premises: When the plaintiff obtains a default judgment for possession of the premises, the case may be calendared for further hearing. In the alternative, a plaintiff may file the necessary declarations for a default judgment or dismissal without prejudice as to the money damages, including attorney fees and costs. Failure to file a dismissal may result in the court barring the plaintiff from obtaining a money judgment or the court calendaring a hearing for the plaintiff to show cause why the case should not be dismissed.

D. Redesignation of Case Where Possession is No Longer In Issue (Section 1952.3) of the Civil Code): The Plaintiff shall immediately notify the Court when possession is no longer in issue and request the matter be designated as a general civil matter (Section 1952.3) of the Civil Code). The case then shall proceed as pursuant to Chapter 3 of these rules.

[Adopted, effective January 1, 2000]

RULE 9.02 UNINSURED/UNDERINSURED MOTORIST ACTIONS

If a complaint includes an uninsured/underinsured motorist claim as defined under Section 68609.5 of the Government Code and Section 11580.2 of the Insurance Code, Plaintiff shall file a declaration stating the case is an uninsured/underinsured motorist case, the name of insurance carrier, and amount of coverage. The Court will suspend the time requirements and the action shall be stayed for a period of one hundred eighty (180) days. A party who claims to be exempt from the stay and who desires to further prosecute the action shall object by noticed motion in the stayed action. Upon the expiration of the one hundred eighty (180) day stay period, the action shall be dismissed unless, upon noticed motion, good cause is shown to the contrary. If such motion is granted, the stay may be extended, but such an extension shall not exceed one hundred eighty (180) days.

[Adopted, effective January 1, 2000]

RULE 9.03 EMINENT DOMAIN

A. Case Management Conference: Cases sounding in eminent domain will be set for a case management conference approximately 180 days after the filing of the complaint. By the date of this case management conference, all parties may stipulate to ADR or a temporary judge at that time. A trial date shall be set not sooner than one hundred twenty (120) days after the case is placed on the civil active list.

B. Settlement Conference: A settlement conference on the issue of compensation shall be set fifteen (15) days before the trial date if the parties have complied with the settlement conference rules. The plaintiff shall attend the conference with its negotiating agent, and all defendants who claim compensation shall be present except lienholders, if any.

[Adopted, effective January 1, 2000]

RULE 9.04 MINORS/INCOMPETENTS/CONSERVATEES

A. Guardians ad Litem: As provided under Section 372 et seq. of the Code of Civil Procedure, a guardian ad litem shall be appointed for a minor, incompetent person, or a person for whom a conservator has been appointed. Due to potential conflicts of interest, parents asserting individual claims or defenses shall not serve as guardians ad litem for their minor children, absent a court order to the contrary. Petitions for appointment of a guardian ad litem shall be filed at the same time as the underlying complaint is filed.

B. Petitions to Compromise the Claim of a Minor: The petition shall be filed and set for hearing in the department designated by the presiding or supervising department unless the case has been assigned to a judge or direct calendar department, in which case the petition shall be filed and heard in that department. The person compromising the claim on behalf of the minor

and the minor shall be in attendance at the hearing of the petition, unless the Court orders otherwise.

At the time of the hearing, the Court shall determine the amount of costs, expenses, and attorney's fees to be allowed from the proceeds of the settlement. Absent extraordinary circumstances, attorney's fees shall not exceed twenty-five percent (25%) of the gross proceeds of the settlement.

If the settlement order provides for deposit in a blocked account, the Court will normally require the attorney submitting the proposed for of order to concurrently submit an Order to Deposit Money, and arrange for establishment of an account for deposit of the funds.

It is the duty of the attorney to ensure that the minor's funds are deposited in accordance with the Court's order. Attorney's fees are not due or payable unless and until the money is deposited in accordance with the Court's order. Attorney's fees are not due or payable unless and until the money is deposited in accordance with the Court's order, and a receipt executed by the depository is returned to the Court.

[Adopted, effective January 1, 2000]

RULE 9.05 CLASS ACTION RULES

A. CLASS CERTIFICATION CONFERENCE: If the Court grants a motion for class certification, the Court will schedule a class certification conference within thirty (30) days to review the proposed notice to class members and will so notify the other appearing parties.

B. PROPOSED NOTICE TO CLASS: Three (3) court days prior to the class certification conference, the prevailing party shall file with the Court and serve personally or by fax on the other appearing parties a proposed notice to the class of the pendency of a class action, and a statement containing the following information:

1. The time when notice should be given;

2. The manner in which notice should be given;

3. If the prevailing party does not feel it should bear the entire cost of the notice, reasons why other parties should bear a portion of the cost; and
4. In the event subdivision "3" above is involved, an estimate of the cost involved in giving notice.

The proposed notice shall also contain:

1. A brief explanation of the case, including basic contentions or denials of the parties;
2. A statement that any member of the class who so requests by a specified date may "opt out" (be excluded from the class) of the action by giving notice;
3. Information concerning how a class member who desires to opt out may give notice;
4. A statement that the claims of a member who does not opt out will be terminated by the judgment in the action under the doctrine of res judicata; and
5. A statement that any member who does not opt out may seek leave of Court to appear as a named class co-representative, upon good cause shown on noticed motion.

C. DISPENSING WITH NOTICE: The Court has discretion to dispense with the notice requirement upon a proper showing in an appropriate case, such as where only injunctive relief is sought.

D. PROGRESS CONFERENCES: Within ninety (90) days after the initial case management conference, the Court may, upon motion of any party, schedule a progress conference. The progress conference will be held to discuss class issues, establish precedence of discovery, schedule hearings, review status of settlement discussions and/or discuss pretrial determination of class issues, as well as address issues traditionally addressed at the initial case management conference.

Counsel completely familiar with the case and possessing authority to enter into stipulations shall be present and fully prepared to discuss the issues outlined

above. If counsel is not fully prepared, the Court may continue the hearing and impose sanctions against the offending attorney. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to counsel's unfamiliarity wit the case at the time of the hearing. At the conclusion of the conference, the Court shall make an order which embraces the stipulations, if any, of the parties. Additional progress conferences will be scheduled at the Court's discretion.

[Adopted, effective January 1, 2000]

CHAPTER 10

MISCELLANEOUS PROVISIONS

RULE 10.00 FAX FILINGS

A. Agency Fax Filings: Pursuant to the CRC 2001 et. Seq., the Court will accept for filing all documents submitted by fax filing agencies, except those specified in the California Rules of Court, Rule 2002.

B. Direct Fax Filings: Any document may be filed directly by fax. Direct fax filing numbers are as follows:

760-344-9231	**limited civil filings (Brawley)**
760-357-6571	**limited civil filings (Calexico)**
760-482-4219	**all civil filings (El Centro)**

Any filing fee relating to a fax filing must be paid at the time of filing by Visa or MasterCard accounts.

C. The Court will not provide conformed copies unless a request is submitted with a self-addressed, stamped envelope, and $1.00 for the first page and $.50 for each additional page of the faxed document.

[Adopted, effective July 1, 2003]

RULE 10.01 PROCEDURE UPON DEATH OF PLAINTIFF

Within ten (10) calendar days of receiving notice of the death of a plaintiff, counsel for the plaintiff shall file with the Court and serve upon all other parties in the action a Notice of Death of the Plaintiff. Upon receipt of the notice, the Court shall suspend future consideration of the case for ninety (90) calendar days. The case shall be placed on a dismissal calendar to be heard ninety (90) days after the notice is filed unless:

A. The original case is consolidated with a new wrongful death action;
B. Good cause is shown upon written noticed motion to extend the time for dismissal; or
C. Plaintiff's counsel moves to have the original action restored to active status.

[Adopted, effective January 1, 2000]

RULE 10.02 RECEIVERS

A. A proposed order appointing a receiver shall set forth the powers of the receiver and shall designate as precisely as possible what real and personal property will be subject to the receivership estate. The powers of the receiver are limited to those designated by statute and set out in the appointing order. If there is any doubt as to the receiver's authority to take certain action, he or she should petition the Court for instructions. The proposed order shall also specify the rate of compensation of the receiver.

B. Employment of counsel by the receiver requires the approval of the Court. In this regard, the application shall comply with the provisions of the CRC 353(b). In addition, the application and the proposed order must set forth the attorney's hourly rate and a good faith estimate of the number of hours the attorney will expend on behalf of the receivership estate.

C. If the receiver intends to employ a property management company, the proposed order shall specify its rate of compensation. If the proposed property management company is affiliated with the receiver, full disclosure of the affiliation must be made to the parties and the court.

D. Any money collected by the receiver and not expended pursuant to the receiver's duties must be held in the receivership estate until court approval of the receiver's final report and discharge of the receiver, except as otherwise ordered by the Court.

E. Accountings filed in receivership proceedings shall set forth the beginning and ending dates of the accounting period and contain a summary of income, expenses, and capital outlays on a month-by-month basis. Receiver's fees and administrative expenses, including fees and

costs of property managers, accountants and/or attorneys previously authorized by the court shall be included in the summary, but separately stated. The summary shall be supported by appropriate itemized schedules and evidentiary foundation.

[Adopted, effective January 1, 2000]

RULE 10.03 CONFIDENTIALITY AGREEMENTS, PROTECTIVE ORDERS, SEALED DOCUMENTS

It is the policy of the Court that confidentiality agreements and protective orders are disfavored and should be recognized and approved by the Court only when there is a genuine trade secret or privilege to be protected. Such agreements will not e recognized or approved by the Court absent a particularized showing (document by document) that secrecy is in the public interest, the proponent has a cognizable interest in the material (e.g., the material contains trade secrets, privileged information, or is otherwise protected by law from disclosure), an that disclosure would cause serious harm. Sealed records may be viewed only by parties and their attorneys of record, unless the order sealing the records states otherwise. Sealed records may not e copied by persons authorized to view them, absent a court order to the contrary.

[Adopted, effective January 1, 2000]

RULE 10.04 DAILY TRANSCRIPTS OF PROCEEDINGS

A party in a civil action may request a daily transcript of the proceedings. The Court may grant the request if such will not disrupt the regular assignment of court reporters. If the request is granted, the requesting party shall deposit with the clerk of the court each day a sum equal to the daily cost of the salary and benefits for court reporters in this county under existing law, to compensation the requisite additional reporter. Current information regarding such cost shall be available in the office of the calendar coordinator of the court.

[Adopted, effective January 1, 2000]

RULE 10.05 DEPOSITIONS

Any deposition returned to court may be opened by the

clerk at the request of either party, and the clerk shall note thereon at whose request it was opened, and file the deposition on the day it was received by the clerk.

[Adopted, effective January 1, 2000]

RULE 10.06 BANKRUPTCY

All parties to an action shall promptly make it known in writing to the court if during the litigation they become debtors in bankruptcy or if, to their knowledge, other parties to the litigation become debtors in bankruptcy.

[Adopted, effective January 1, 2000]

RULE 10.07 TELEPHONE APPEARANCES

Pursuant to California Rule of Court 298, the Court has contracted with CourtCall LLC, a private telephonic appearance provider. The telephone number for CourtCall LLC is (888) 88-COURT [(888) 882-6878].

A. Program Overview

1. The CourtCall Telephonic Appearance Program (CourtCall) organizes a procedure for telephone appearances by attorneys and parties representing themselves (hereinafter "attorneys" or "counsel") as an alternative to personal appearances in appropriate cases and situations. A CourtCall appearance is fully voluntary and available at a fixed fee to use only in certain civil, unlawful detainer, and probate cases.

2. Hearings are conducted in open court. All attorneys making CourtCall appearances call a designated toll free tele-conferencing number five (5) minutes before the calendar is scheduled to check in with CourtCall. Attorneys remain on the Court's speakerphone-telephone line and hear the same business that those present in the Court may be hearing. Attorneys not participating telephonically appear in person. The Court calls the cases and all the attorneys on a case participate in the hearing. All present in the courtroom hear the discourse of

those making CourtCall appearances.

3. CourtCall appearances are scheduled, in writing, in advance, by counsel serving on all other counsel and pro se parties and delivering (by fax, mail, or personal delivery) to CourtCall, not less than five (5) court days prior to the hearing date, a Request for CourtCall Appearance form and by paying the stated fee for each CourtCall appearance. It is the responsibility of counsel to obtain, from CourtCall, required forms and payment information.

B. Participation in CourtCall Appearances

1. Except as otherwise stated below, and subject to the Court's right to amend this list, counsel shall have the option of appearing by telephone in case management proceedings, civil law and motion hearings and probate proceedings (a) where the total time required for hearing of the matter will not exceed ten (10) minutes, (b) where counsel has fully briefed all issues in writing and wishes only to be available to respond to questions from the Court or argument of opposing counsel, (c) where all documents and exhibits have been filed with the pleadings of the parties and no further documentation will be offered.

2. Counsel shall not have the option of appearing by telephone in the following matters: (a) judgment debtor examinations; (b) mandatory settlement conferences; (c) ex parte applications; (d) evidentiary hearings; and (f) criminal cases.

3. The Court reserves the authority, at any time, to reject any Request for CourtCall Appearance. When the Court rejects a request, it shall order a refund of deposited telephone appearance fees and

notify CourtCall.

4. The Court reserves the authority to halt the telephonic hearing on any matter and order the attorneys to personally appear at a later date and time, in which case no refund is permitted.

5. If a matter is continued prior to the actual hearing date, the prior filing of a Request for CourtCall Appearance form shall remain valid for the continued date of the hearing.

C. Appearance Procedure

1. Attorneys electing to make a CourtCall appearance shall serve on all other parties in the case the Request for CourtCall Appearance form, fax a copy of the form to CourtCall, and pay the CourtCall appearance fee in the method prescribed, not less than five (5) court days before the hearing date.

2. Attorneys choosing to make a CourtCall appearance shall place the phrase "CourtCall Telephone Appearance" below the title of the moving or opposing papers.

[Adopted, effective January 1, 2001]

RULE 10.08 DEFAULT ATTORNEY FEE SCHEDULE

A. Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case may be fixed pursuant to the following schedule:

25% of the first $1,000 (minimum fee of $150)
20% of the next $4,000
15% of the next $5,000
10% of the next $10,000
5% of the next $30,000
2% of the amount over $50,000

B. In any case where an attorney claims he or she is entitled to a fee in excess of any of the

above amounts, the attorney may apply to the Court therefor and present proof to support the claim. The Court shall determine the reasonable fee amount according to proof.

[Adopted, effective January 1, 2000]

RULE 10.09 ATTORNEY FEES IN CONTESTED MATTERS

In contested matters, the Court shall determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with Section 1021 et seq. of the Code of Civil Procedure, Sections 1717 and 1717.5 of the Civil Code, CRC 870.2 and as otherwise provided by law.

[Adopted, effective January 1, 2000]

RULE 10.10 ATTORNEYS' ATTENDANCE AT HEARINGS

A. Attorneys are required to promptly appear at all proceedings calendared in civil and criminal matters.

B. If an attorney will be late or will not appear at any calendared proceeding, the attorney is required to telephone the department in which the proceeding is set, prior to the time set for the appearance, and advise the clerk or bailiff that the attorney will be late or will not be present. Failure to so advise the clerk or bailiff is a violation of an order of this court, and may subject the violator to sanctions pursuant to Code of Civil Procedure section 177.5, in addition to any other sanction or proceeding provided by law.

C. The telephonic advisement referred to in subdivision B of this Rule will not excuse an attorney's failure to timely appear at a calendared proceeding.

CHAPTER 11

SMALL CLAIMS

RULE 11.00 HEARING OFFICER

A duly appointed commissioner, referee or judge pro tem shall hear and adjudicate small claims cases at the El Centro, Brawley, Calexico and Winterhaven Courts.

[Adopted, effective January 1, 2000]

RULE 11.01 FILING LOCATIONS

Small claims may be filed in the Clerk's Office in the El Centro Courthouse or in Brawley, Calexico and/or Winterhaven, depending on the same venue rules that have application to the filing of limited civil cases. (Refer to Rule 2.07.)

[Adopted, effective January 1, 2000]

RULE 11.02 CALENDARING

The clerk's office of the court in which the case is properly filed will calendar and notice each small claims case for hearing in said court. As noted, the Small Claims Commissioner travels from court to court to conduct such hearings.

[Adopted, effective January 1, 2000]

RULE 11.03 APPEALS

Appeals from rulings by the Small Claims Commissioner may be filed at the court in which the small claims matter was heard.

[Adopted, effective January 1, 2000]

RULE 11.04 CALENDARING APPEALS

The Appellate Division will give all appeals a number and assign the case for trial "de novo" on a rotational basis before one of the two civil team judges.

[Adopted, effective January 1, 2000]

RULE 11.05 SMALL CLAIMS ADVISOR

The Paralegal serves as the small claims advisor pursuant to CCP 116.940.

[Adopted, effective January 1, 2000]

CHAPTER 12

CRIMINAL RULES

RULE 12.00 POLICY

It is the policy of the court to manage all criminal cases in accordance with Section 2.1 and 2.3 of the Standards of Judicial Administration contained in the Appendix of the CRC. Nothing shall prevent the court from allowing exceptions to the aforesaid guidelines where the interests of justice require the same.

[Adopted, effective January 1, 2000]

RULE 12.01 COMPLAINT FILING AGENCIES

Criminal complaints may only be filed by the District Attorney of Imperial County, the State Attorney General or by a city attorney of a city within the county; except, direct filing of criminal complaints by the originating police agency may be permitted when authorized by the court.

[Adopted, effective January 1, 2000]

RULE 12.02 FILING LOCATIONS; CALENDARING

A. Misdemeanor complaints involving in-custody defendants are filed with the Clerk of the Jail Department and such defendants are arraigned at said department. In-custody misdemeanor cases, which do not settle at arraignment, are then calendared for pretrial, motions, readiness and trial at the El Centro Courthouse, Brawley or Calexico Courthouse, depending on application of intra-county venue. (Refer to Rule 2.07.)

B. Misdemeanor complaints involving out of custody defendants are filed at the EL Centro, Brawley or Calexico Courthouse, depending on intra-county venue. Such defendants are then arraigned and their cases are pretried and tried before the judge to which they are assigned.

C. Misdemeanor pretrial, motions and trials are calendared on a rotational basis by the El Centro Criminal Section of Clerk’s Office and by the respective Clerk’s Offices in Brawley and

Calexico.

D. Felony complains are filed at the Jail Department, where defendants are then arraigned, pretried and accorded preliminary hearings. When scheduling difficulties preclude a preliminary hearing from being heard at the Jail Department, the preliminary hearing may be assigned to be heard at the courtroom of another criminal team member. (The Supervising Criminal Division Judge ("SCJ") may direct such an assignment.)

E. Where a defendant charged with one or more felonies is required to answer following preliminary hearing (or where a preliminary hearing is waived), an information must be filed with the Criminal Department of the Court Clerk's Office at the El Centro Courthouse, as required by law.

F. Defendants charged by information with one or more felonies are arraigned in the master calendar department by the SCJ or any other judge who may be assigned to that department. The SCJ (or other judge assigned) thereafter hears and determines felony pretrial motions, presides over readiness conferences, and, where not inconsistent with law, assists in the disposition of cases without trial. At readiness conferences, the SCJ assigns cases for trial to judges on the criminal team.

G. The Clerk of the Criminal Department calendars felony arraignments and all other post-preliminary hearing pretrials and hearings in the master calendar department. When a case is assigned for trial, the Clerk of the Criminal Department calendars the trial and advises the Jury Commissioner of the identity of the assigned trial judge.

[Adopted, effective January 1, 2000]

RULE 12.03 PEREMPTORY CHALLENGES

A. In recognition the Court has established a master calendar system for felony trials, any challenge pursuant to Code of Civil Procedure Section 170.6 must be made not later than the readiness conference when the SCJ (or any other judge presiding at the readiness conference)

identifies the trial judge.

B. If a felony is reassigned to another judge for trial (and the party has not heretofore exercised a challenge under CCP 170.6), the challenge must be made no later than ten (10) days after the notice of reassignment.

C. When the Clerk assigns a misdemeanor for trial, any peremptory challenge must be filed within ten (10) days of the notice of assignment.

D. In the case of trials or hearings not specifically provided for above, the procedure of Section 170.6 of the Code of Civil Procedure shall be followed as nearly as possible.

[Adopted, effective January 1, 2000]

RULE 12.04 TIME FOR FILING COMPLAINTS

All criminal complaints charging in-custody defendants shall be filed at the earliest time possible, but in no case later than 11:30 a.m. on the date set for arraignment of the defendant on those charges. All criminal complaints charging out of custody defendants shall be filed not later than twenty-four (24) hours before the time set for arrangement. Upon a showing of good cause, a later time for filing may be authorized by the judge assigned to the arraignment.

[Adopted, effective January 1, 2000]

RULE 12.05 SETTING HEARINGS AND TRIAL DATES

A. At the time a not guilty plea is entered; and, if time is <u>not</u> waived, the Court shall set:

1. A trial date within sixty (60) days of the filing of the information or within thirty (30) or forty-five (45) days if the matter involves only misdemeanors, pursuant to Penal Code Section 1382(c):

2. A pretrial settlement conference at least ten (10) days prior to the trial date; and

3. A readiness conference at least one (1) day prior to the trial date.

B. At the time a not guilty plea is entered, and if time is waived, the Court shall set:

1. A trial date giving priority to cases entitled to it by law, unless counsel requests to defer trial setting until the initial pretrial conference.

2. A pretrial conference date at least ten (10) days prior to the trial date; and

3. A readiness conference at least one (1) day prior to the trial date.

[Adopted, effective January 1, 2000]

RULE 12.06 PRETRIALS

A. Negotiation of criminal cases at the earliest practicable stage of the proceedings furthers a significant social policy and is to be encouraged. Counsel are strongly encouraged to meet and confer informally in an attempt to resolve cases at the earliest convenient time. The Court may decline to meet in any pretrial conference with parties who have not attempted a resolution beforehand.

B. Misdemeanor matters are subject to early disposition quidelines where applicable under state law or local rules. A final pretrial conference should be set at least ten (10) calendar days prior to trial. The defendant need not be personally present pursuant to Penal Code Section 977.

However, to facilitate the expedited trial program time standards, counsel must either have his or her client (1) present or (2) readily available or (3) possess full authority to negotiate any disposition within the parameters of statutory possibility. When the interests of justice so dictates, the Court may order the personal presence of the defendant.

C. The first felony pretrial conference with the Court shall occur prior to the preliminary hearing. The prosecutor shall deliver to defense counsel (or to a defendant proceeding in pro per) a formal offer for resolution prior to or at the felony pretrial. Defense

counsel shall meet with his/her client before said conference and be prepared to discuss the offer or other possible disposition with the Court. All counsel shall appear at the felony pretrial with the objective of disposing of the case.

D. Early resolution will be best promoted if parties comply with the discovery statutes as soon as possible following the entry of the initial plea in the case. Pursuant to informal discovery request, the prosecutor should all police reports in his/her possession containing the information described in Penal Code Section 1054.1(b), (e) and (f).

E. After a defendant is held to answer or an indictment is filed, early disposition shall again be attempted following compliance by all parties with discovery rules. The fourteen (14) day rule in Rule 227.4(i)(ii) may be waived if counsel or the Court believe that an early pretrial conference will help resolve the case. Additional conferences may be set on order of the Court.

[Adopted, effective January 1, 2000]

RULE 12.07 PRETRIAL MOTIONS

A. Generally, the provisions of CRC 4.111 shall apply to pretrial motions in misdemeanor and felony matters not requiring an evidentiary hearing.

B. In motions involving an evidentiary hearing, the moving party must specify on the first page of his/her notice of motion that an evidentiary hearing is requested and the estimate of time needed. Failure to comply with this rule may result in a denial of the right to preset live testimony.

[Adopted, effective January 1, 2003]

RULE 12.08 MOTIONS UNDER PENAL CODE SECTIONS 995 AND 1538.5

A. In addition to the requirements of Rule 12.07, moving papers relating to motions under Penal Code

Sections 995 and 1538.5 shall comply with the following:

1. The motion shall be in writing and contain points and authorities and a concise statement of all alleged facts upon which the moving party intends to rely in support of the motion. Said statement shall include, if relevant, facts allegedly asserting the moving party's standing to bring the motion. In the case of a motion to suppress evidence, a statement the search was executed without a warrant is not by itself considered a sufficient statement of facts under this rule;

2. Where a moving party intends to rely upon testimony in a transcript of prior proceedings, reference to such testimony identified as to page and line number in the transcript shall be included;

3. Where the motion is under Penal Code Section 1538.5, a complete specification of the exact matters or things sought to be suppressed or returned shall be designated. ("All evidence seized. . ." without listing the items is not a specification.); and,

4. Where the motion is under Penal Code Section 995, a specific identification of how the People's case is defective shall be contained in the motion.

B. A moving party's failure to set forth each and every ground to be relied upon in support of the motion in the memorandum of points and authorities may be construed by the Court as an admission that insufficient facts exist to support said ground and a waiver of the right to assert said ground at the hearing unless the Court, for good cause show, rule otherwise.

C. A motion to suppress evidence may be made at a preliminary hearing only if at least five (5) court days before the date set for the preliminary hearing, the defendant has filed and personally served on the people a written motion as referred to

in Paragraph A above. At the preliminary examination, the magistrate may grant the defendant a continuance for the purpose of filing and serving the motion upon the People, at least five (5) court days before resumption of the examination, upon a showing the defendant or his or her counsel was not aware of the evidence or was not aware of the grounds for suppression before the preliminary examination. Any written response by the People to the motion shall be filed with the Court and personally served on the defendant or his or her attorney at least two (2) court days prior to the hearing at which the motion is made.

[Adopted, effective January 1, 2000]

RULE 12.09 CONTINUANCE POLICY

A. It is the policy of the Court that all criminal proceedings be heard and set for trial at the earliest possible time. Consistent with said policy (and the disposition standards adopted by Rule 11) continuances will generally not be granted, absent good cause. Any contested motion to continue a criminal proceeding (except pretrial) must comply with Penal Code Section 1050.

B. The Court recognizes the right of a party to a fair trial may prevail over the above stated policies, thereby requiring a continuance to be granted, if such does not violate some other constitutional right. If the need for such a continuance is caused by an act or omission of counsel for either party, sanctions may be imposed.

[Adopted, effective January 1, 2000]

RULE 12.10 BAIL

A. Effective February 27, 1998, the judges adopted a uniform felony bail schedule. The Court intends to annually review the schedule and to make revisions as are deemed necessary.

B. Prior to the setting of bail by a judge or magistrate, increases or reductions in bail may be sought in accordance with provisions contained in the bail schedule. Any person requesting a bail reduction or increase shall

disclose all other applications that have been made prior to the subject request.

C. If bail is set by a judge or magistrate out of court, any further out of court request for increase or reduction of bail shall be made to the judge who set such bail.

[Adopted, effective January 1, 2000]

RULE 12.11 TRAFFIC RULES

A. Eligibility for Traffic School. The Court will permit attendance at a California Department of Motor Vehicle certified traffic school as a means of obtaining a dismissal of the traffic citation. Those eligible for traffic school shall have:

(1) All other non-traffic school eligible charges cleared prior to assignment.

(2) Valid California driver's license.

(3) No outstanding failures to appear or failures to pay a fine.

(4) Been charged with an infraction which is a rule of the road violation not related to alcohol, parking, registration or an accident, or a comparable misdemeanor or infraction which is a violation of a municipal ordinance.

(5) Not attended a traffic school more than one (1) other time within eighteen (18) months of the violation date.

[Adopted, effective July 1, 2001]

B. Dismissal. The traffic citation or complaint will be dismissed upon the presentation of any required fees by the date specified for completion.

C. Continuance by Clerk. A clerk of this court may, upon request of a defendant or his counsel, continue the initial arraignment of a defendant except for defendants released on bail.

D. Trial by Declaration.

(1) The Court adopts the provisions of Vehicle Code Sections 40902 and 40903, except as limited herein.

(2) Any defendant shall be afforded a trial by declaration for such charges as allowed by Vehicle Code Section 40902 upon written request.

(3) Any person requesting a trial by declaration shall be informed of the requirement to post bail in the full amount specified by the bail schedule. Failure to post bail within fifteen (15) days of notice by the clerk shall be deemed to be a withdrawal of the request for trial by declaration. Thereafter, a person shall not be afforded a trial by declaration in that case.

(4) A person having posted bail for a trial by declaration shall adhere to the time limits set by the clerk of the court for submission of any required declarations, exhibits or other evidence in a timely manner shall result in a bail forfeiture without further proceedings.

(5) A person dissatisfied with the decision of the court may request and shall be provided a trial de novo provided the request is made in a timely manner. A timely manner shall be the same time as provided for filing a notice of appeal.

(6) Pursuant to Vehicle Code Section 40903, this court will permit all relevant evidence in the form of police reports, written declaration of the defendant or any witness, photographs, drawings, diagrams or other probative evidence.

(7) Any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of this code or any local ordinance adopted pursuant to this code.

(8) Pursuant to Vehicle Code Section 40903, this Court will permit testimony and other relevant evidence to be introduced in the form of a notice to appear issued pursuant to Section 40500,a business record or

receipt, a sworn declaration of the arresting officer, or a written statement or letter signed by the defendant.

[Adopted, effective July 1, 2001]

RULE 12.12 MOTIONS TO DISCOVER PEACE OFFICER PERSONNEL RECORDS UNDER EVIDENCE CODE SECTION 1040 ET SEQ.

A. Papers relating to motions under Evidence Code Section 1043 shall be served in accordance with Code of Civil Procedure Section 1005.

B. The public entity in possession of the records subject to the motion shall, at the hearing, present the court with a document in the nature of a "privilege log." The log shall identify all potentially responsive documents located in the records by date, description (e.g. "memo," or "letter"), author, and subject matter. The log shall not be served on any party, and shall be sealed by the court subsequent to the hearing. The custodian of the records shall bring to the hearing all documents identified in the log.

C. In the event that no potentially responsive documents are located in the records, the custodian of records shall submit a declaration so stating.

(Adopted, Effective January 1, 2004)

CHAPTER 13

DOMESTIC RELATIONS

Division A. PRELIMINARY MATTERS

RULE 13.1 APPLICABILITY

Except as otherwise herein provided, RULE 4 of these Local Rules shall apply in Family Law Matters.

[Adopted, effective January 1, 2000]

RULE 13.2 NOTICE OT COUNSEL AFTER ENTRY OF JUDGMENT

After a Judgment has been entered, the attorney of record for the party remains attorney of record, and is entitled to timely notice unless there is on file a proper withdrawal by stipulation, order, or notice pursuant to Code of Civil Procedure Section 285.1.

[Adopted, effective January 1, 2000]

RULE 13.3 EX PARTE ORDERS

A. Ex parte matters will be hard at 1:30 p.m. in the Family Law Department. The party filing the ex parte application must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance. All documents in support of an ex parte application must be filed 24 hours prior to the time for hearing.

B. The party requesting the orders must inform the judge whether the opposing party is represented by counsel. If the opposing party is represented, the moving party must inform the judge of the name, address and telephone number of opposing counsel, and whether or not reasonable notice has been given so that counsel could appear and oppose the application.

C. Where the opposing party is not represented by counsel, reasonable notice must be given, including the date, time, and place the request will be made, and the nature of the request so that the party may have an opportunity to oppose the application.

D. Notice may be excused if, following a good

faith attempt, the giving of notice is not possible.

E. Notice may be excused if the giving of notice would frustrate the purpose of the order, or lead the applicant to suffer immediate and irreparable injury.

F. An application for ex parte orders, including an order shortening time for service and/or filing or extending the duration of ex parte orders already in effect shall be accompanied by a declaration containing sufficient factual information within the personal knowledge of the declarant to adequately support the relief requested.

G. THERE IS AN ABSOLUTE DUTY TO DISCLOSE THE FACT THAT A REQUESTED EX PARTE ORDER WILL RESULT IN A CHANGE OF THE STATUS QUO.

H. Ex parte orders submitted for a judge's signature shall be accompanied by an executed coversheet substantially in the form set forth in Appendix B1.

[Adopted, effective January 1, 2000]

RULE 13.4 EXCEPTIONS TO RULE 13.3

A. Referral to Mediation pursuant to Family Code Section 3170 et seq. may be ordered by the Court without prior notice to the parties or counsel.

B. A Wage and Earnings Assignment pursuant to Family Code Section 5200 et seq.

[Adopted, effective January 1, 2000]

RULE 13.5 FILING OF PAPERS

A. With regard to procedure for Orders to Show Cause or Notices of Motion, absent an order shortening time or a specific governing statute or Rule to the contrary, moving, responding, and reply papers shall be filed in accord with Code of Civil Procedure Section 1005.

B. The Court hereby adopted the provisions of California Rules of Court, Division II (beginning with Rule 301) to the extent such Rules do not conflict with

statute.

C. When support, or attorney's fees and costs are a issue, a current Income and Expense Declaration must be filed by each party prior to the hearing. If it is contended that a previously-filed Income and Expense Declaration is current, specific reference must be made thereto, including the execution and filing date. If the current financial status of a party is temporary, both the current status and the estimated future status shall be shown and properly identified. Wage earners shall attach legible copies of their three most recent pay stubs, or a declaration from their employer establishing that no such stubs exist, and setting forth the employee's wages for the last three pay periods.

D. In addition to an Income and Expense Declaration in the prescribed form, supplemental information may be filed to assist the court.

[Adopted, effective January 1, 2000]

SEE DIVISION D HEREIN FOR ADDITIONAL RULES WITH REFERENCE TO FINANCIAL INFORMATION TO BE PROVIDED TO THE COURT.

RULE 13.6 HEARINGS

A. Failure to Appear

(1) Failure of a moving party or attorney to be present at calendar call may result in the matter being removed from the calendar; and if the responding party has appeared, attorney's fees and costs may be awarded to the appearing party against the offending party without prior notice other than this rule. The level of award of attorney's fees and costs shall be based on actual reasonable fees and costs resulting from the incident, and may be set forth by brief testimony of the party or the party's counsel.

(2) In the event the responding party fails to appear, the court may continue the matter and award attorney's fees and costs in the same manner as set forth in subsection

(1), or enter an order on the pleadings and testimony of the moving party.

(3) If for any reason an attorney or party in propria persona is unable to be present at calendar call, the court AND the opposing party or counsel to a represented party shall be notified immediately by telephone of the reasons for and the extent of the delay.

B. Meet and Confer

If by the date of hearing, the parties, and their respective counsel have not met and conferred in good faith effort to resolve all pending issues, the Court may trail or continue the matter to allow such meeting and conferring, and may order that the parties and their respective counsel meet and confer within specific time parameters.

C. Presentation of Evidence

Parties, or their respective counsel, shall be prepared to present their case based upon pleadings, declarations, and stipulated offers of proof. If testimony is required, the moving or responding party shall fully comply with California Rules of Court, Rule 323. This section does not apply to cases arising under the Domestic Violence Prevention Act, Petitions for Injunctions to Prevent Harassment, or Citations for Contempt. In these actions, testimony is always expected at the disposition hearing.

[Adopted, effective January 1, 2000)

Division B. CUSTODY AND VISITATION

RULE 13.7 REFERRAL TO MEDIATION

A. Whenever any petition for dissolution of marriage, legal separation, declaration of nullity of a voidable marriage, or any proceeding to determine or modify child custody or visitation is filed in the Superior Court (except for a petition under the Domestic Violence Protection Act where the parties are not

married), and it appears to the Court at any time during the pendency of the proceedings that the welfare of any minor children of either or both of the parties may be affected by such proceedings, the Court shall refer the parties to mediation at least once prior to rendering judgment.

B. It is the policy of this Court that parties shall attempt to reach agreement as to matters regarding child custody and visitation between themselves, with the confidential assistance of the Mediator, prior to any litigated judicial proceedings. This mediation shall be conducted in all contested cases involving child custody and/or visitation, and shall be at no initial cost to the parties.

C. At the time of the referral to mediation, the Court will set a date certain for further hearing in advance of which, mediation shall be concluded.

[Adopted, effective January 1, 2002]

RULE 13.8 WITHDRAWAL BY MEDIATOR

The mediator may petition to withdraw from a case by noticed motion.

[Adopted, effective January 1, 2000]

RULE 13.9 WHO PARTICIPATES IN MEDIATION SESSIONS?

The Mediator shall have the authority to exclude counsel from participation in the mediation proceedings, and to involve such other persons in the proceedings as the Mediator deems appropriate. The Mediator shall have the duty of assessing the needs and interests of the children, and may interview the children when the Mediator deems such interview appropriate or necessary. Children shall not be brought to the Mediator's facility, except upon the request of the Mediator.

[Adopted, effective January 1, 2000]

RULE 13.10 CONFIDENTIAL MEDIATION

The mediation proceedings shall be held in private, and shall be confidential. The Court shall not allow mediators to testify concerning any aspect of the

mediation proceedings.

[Adopted, effective January 1, 2000]

RULE 13.11 MEDIATION PROCESS

The Mediator shall schedule a first mediation session at the soonest practicable time and date after the referral. Notice of the first mediation session shall be given in writing to each party (or counsel, if the party is represented). The Mediator shall review any items the parties feel would be helpful to the mediation process, including items from the Court's file (especially the moving and responding papers and any pertinent prior orders or judgments), and the Mediator may speak with the parties' attorneys of record. Any items for the review of the Mediator should be submitted by the parties or counsel in advance of the first mediation session, is possible. An attempt shall be made by the parties, with the assistance of the Mediator, to informally resolve any disputes regarding custody and mediation.

A. Successful Mediation

If mediation is successful, and yields an agreement (even a partial agreement on just some of the issues relating to custody and visitation), the Mediator shall draft said agreement and circulate it to the parties (or counsel for those parties who are represented) for review. Once all parties and counsel have signed off on the agreement, and after notice to all parties, it may be submitted to the Court for signature and entry as an order. Such agreement may contain a stipulation to take the pending hearing (set by the Court on referral of the parties to mediation) off calendar. Any agreement executed by the Court without first being executed by all parties and counsel may be vacated on ex parte application.

B. Unsuccessful Mediation

If mediation yields no agreement on any issues, the Mediator shall report only that mediation was unsuccessful.

[Adopted, effective January 1, 2002]

RULE 13.12 INTRODUCTION TO MEDIATION

An "Introduction to Mediation," in the format set forth in Appendix B2 shall be provided to all parties falling within the ambit of this chapter.

RULE 13.13 FOLLOW-UP MEDIATION

The Court Mediator may contract follow-up mediation directly with the parties as deemed necessary, and shall provide statistical information regarding the effectiveness of the mediation process to the Court.

[Adopted, effective January 1, 2000]

RULE 13.14 ADVANCE MEDIATION

Mediation may occur prior to the time of a scheduled court proceeding if the parties agree in writing. The Advance Mediation Form set forth in Appendix B3 or other stipulated court order may be used. These shall be filed with the Clerk's office, which shall notify the Mediator through the normal referral process.

[Adopted, effective January 1, 2000]

RULE 13.15 RESERVED
RULE 13.16 RESERVED

RULE 13.17 EX PARTE COMMUNICATIONS

The court-appointed investigator may not engage in ex parte contact with the Court or any party or counsel (and vice versa) with regard to substantive matters relating directly to custody and visitation.

[Adopted, effective January 1, 2002]

RULE 13.18 RESERVED

RULE 13.19 COURT EXPERTS

In an appropriate case, the Court may refer the matters of custody and visitation to the Probation Department, or to another Court expert for an investigation and report pursuant to Family Code Section 3110 and Rule 5.220 of the California Rules of Court, or Evidence Code Section

730. Other experts the Court might appoint include, but are not limited to: an attorney for a child, a private custody investigator, or a psychological custody evaluator. The cost of said experts may be borne by the parties in a proportion to be ordered by the Court. It is the policy of the Court to resolve disputed custody and visitation issues as expeditiously as possible.
[Adopted, effective January 1, 2000]

RULE 13.20 RULES REGARDING COURT EXPERTS (adopted pursuant to Rule 1257.3 of the California Rules of Court; renumbered as Rule 5.220 eff. 01/01/03.)

When a court-appointed investigator makes contact with minor children of families being investigated, the following rules shall apply:

a. The investigator must disclose to the child that any discloses will not be confidential, unless the Court grants a protective order protecting such disclosures, in which case, the investigator shall so advise the child. Where lack of confidentiality seems to impede the investigation, the investigator may recommend that an attorney be appointed for the child, or communicate with each party (or counsel, if represented) and recommend that the matter be calendared for the purpose of discussing an appropriate protective order.

b. In a dispute between parents, a child seen by the investigator with one parent must be seen with the other, unless the Court orders otherwise on good cause shown.

c. If siblings are interviewed, separate interviews must be conducted, unless the Court orders otherwise on good cause shown, although subsequent joint interviews may be appropriate.

d. In a dispute between parents, an investigation may not be based on an interview with only one parent, unless the Court orders otherwise on good cause shown.

RULE 13.21 DISQUALIFICATION OF COURT EXPERT (adopted pursuant to Rule 1257.3(d) of the California Rules of Court; renumbered as Rule 5.220 eff. 01/01/03.)

No expert appointed by the Court to perform an independent custody evaluation in substantial accord with

Family Code Section 3110 and Rule 5.220 of the California Rules of Court may be peremptorily challenged.
[Adopted, effective January 1, 2002]

RULE 13.22 RULES REGARDING DISTRIBUTION OF INVESTIGATION REPORT (Adopted pursuant to Rule 1257.3 of the California Rules of Court; renumbered as Rule 5.220 eff.01/01/03.)

The investigation report of any expert appointed by the Court shall be distributed in writing as follows: A copy will be delivered to the Court in an envelope marked "confidential." Contemporaneously, copies shall be delivered or mailed to all counsel and unrepresented parties. Service on counsel shall be considered sufficient service on the party represented by that counsel.
[Adopted, effective January 1, 2000]

RULE 13.23 GRIEVANCE PROCEDURE IN CONNECTION WITH COURT ORDERED INVESTIGATIONS (Adopted pursuant to Rule 1257.3(d) of the California Rules of Court; renumbered as Rule 5.220 eff. 01/01/03.)

Any party or attorney representing a party with a grievance regarding mediation or evaluation after a hearing shall file a motion or OSC with the Court for resolution immediately upon determining the grievance exists.
[Adopted, effective January 1, 2000]

Division C. SETTLEMENT CONFERENCE AND TRIAL

RULE 13.24 AT ISSUE MEMORANDUM

A. An At Issue Memorandum and Arbitration Conference Statement shall be filed before any contested case may be set for trial. A Counter At Issue Memorandum and Arbitration Conference Statement shall be filed within ten (10) days on behalf of any party disagreeing with the At Issue Memorandum.

B. Any Counter At Issue Memorandum which sets forth an objection to the setting of trial due to a contention that the matter is not ready to be tried, shall set out with specificity the reason the matter is not ready. If the reason is non-payment of court-ordered litigation fees or costs, the Counter At Issue shall set out the date of the order(s), the amount(s) ordered, and

the amount(s) paid. If the reason is incomplete discovery, the Counter At Issue shall indicate with specificity what discovery is outstanding or proposed, shall include an estimate of time to complete discovery, and shall explain the basis of that time estimate.

C. After the At-Issue is processed by the Court, a trial setting conference will be scheduled in the Family Law Department. All short cause matters will be scheduled by the Calendaring Department upon filing an At-Issue Memorandum. (CRC Rule 214. Management of Short Cause Cases.)

[Adopted, effective January 1, 2004]

RULE 13.25 SETTLEMENT CONFERENCE

a. A mandatory settlement conference shall be held in all Domestic Relations cases. Each party and the attorney for each party shall personally attend the settlement conference unless excused by the Court prior thereto.

b. Wherever possible, the judge presiding over the settlement conference SHALL BE THE TRIAL JUDGE. The Court's role is to assist counsel in concluding settlement negotiations. This presumes preliminary settlement discussions have been held, and that there has been a full and complete exchange of all pertinent information pursuant to these Rules, and pursuant applicable law.

c. The parties may comply with California Rules of Court, Rule 222 by lodging with the Court the settlement proposal required by Section 3 of this Division.

d. In the event that either party fails to comply with California Rules of Court, Rules 222, the settlement conference shall be removed from calendar. In the event that both parties fail to comply with Rule 222, the trial date shall be vacated, and the case removed from the civil active list.

[Adopted, effective January 1, 2000]

RULE 13.26 EXCHANGE OF SETTLEMENT PROPOSALS

a. At least forty-five (45) days prior to the date set for Settlement Conference, Counsel for each

party shall send a settlement letter to the other containing the following:

(1). The propounding party's understanding of each issue resolved by agreement as a result of discussions between Counsel and/or the parties.

(2). The propounding party's understanding of each disputed issue to be tried.

(3). A copy, draft copy, or summary of the matters to be contained in the Trial Statement to be prepared pursuant to these rules.

b. The settlement proposal exchanged pursuant to this rule shall be set forth with same specificity as a judgment.

[Adopted, effective January 1, 2000]

RULE 13.27 TRIAL STATEMENT

a. Each party shall prepare, serve and file a Trial Statement at lease five (5) Court days prior to the date set for Settlement Conference. Issues not addressed in the Trial Settlement may not be litigated except in the discretion of the Court on good cause shown. The Statement shall include or have as an attachment, the following:

(1). A proof of service on opposing counsel.

(2). An itemization of all issues resolved; if the resolution be by written agreement, a copy of the agreement; if the agreement by oral, a statement of the details.

(3). An itemization of all issues in dispute, and the propounding party's proposed resolution of them, including, if applicable:

(a). A proposal for an equal division of the community property which division takes into account:

i. The assumption/payment of

liabilities, as well as litigation fees and costs where appropriate;

ii. Tax consequences;

iii. Credit for the payment of community obligations with separate property funds;

iv. Child support;

v. Spousal support;

vi. Custody and visitation;

vii. Attorney's fees, court costs, and other costs of litigation.

(4). A representation that a good faith effort has been made to resolve all disputed issues.

(5). An Income and Expense declaration in the form prescribed by Rule 1285.50 of the California Rules of Court, which shall also comply with the Imperial County Superior Court rules, unless litigation costs and support are not in issue.

(6). A Property Declaration in the form prescribed by Rule 1285.55 of the California Rules of Court or the information required by that form contained in the body of the Statement— indicating the claimed values and a proposal for division, unless property division is not in issue. Values claimed by either party shall be supported by appraisals or statements, copies of which shall be attached, unless good cause be shown why no appraisal or statement has been obtained. Except for items of unusual value, personal property may be aggregated as, e.g., "jewelry $1000." There shall be a rebuttable presumption that the average Kelly Blue Book value shown for a given vehicle is its fair market value. If it be claimed that an item of property is wholly or partially separate, the Statement should show clearly the

item or amount claimed to be separate, and the justification therefor. If any community funds have been used to purchase or maintain separate property, the amounts and the times the payments were made must be shown.

(7). Any additional information which the propounding party believes would be helpful to the Court.

(8). Where property is not in issue, no Property Declaration or statement need be included. Where support or attorney's fees are not in issue, no Income and Expense Declaration need be filed; however, a statement shall be filed setting forth the fact that the various matters are not in issue. Failure to file a proper trial statement may result in the settlement conference and trial going off calendar, or in appropriate issue sanctions or other sanctions. The settlement conference judge will have the authority to impose said sanctions sua ponte. Such sanctions may also be requested on noticed motion.

[Adopted, effective January 1, 2000]

RULE 13.28 CONFERENCE WITH TRIAL JUDGE

On the date set for trial, and prior to any evidence being presented, the Court may, with the agreement of all counsel, conduct a Settlement Conference. By participating in this Conference, counsel waive any right to assert the disqualification of said Judge other than for actual cause.

[Adopted, effective January 1, 2000]

Division D. CHILD AND SPOUSAL SUPPORT

RULE 13.29 GENERAL

In supplying Income and Expense Declarations for the court's consideration, the party should include the following (on attachments, if necessary):

a. Commissions *
b. Bonuses *

c. Overtime *
d. Employment benefits (“perks”) whether in cash or in kind.
e. Where employment is seasonal, a description of the employment*
f. Unemployment insurance benefits shall also be included, along with an explanation of why the party is currently unemployed, and efforts have been made to seek new employment.
g. The identity of all income-producing household members, their relationship to a party, gross and net income, contributions to household expenses, and financial arrangements between the parties, if any.

- **with history and illustrative amounts**

[Adopted, effective January 1, 2000]

RULE 13.30 CHILD SUPPORT

a. Where a Judgment is obtained by default, and there is no attached written agreement concerning child support, or the Judgment itself is not in the form of a stipulation, the supporting declaration and any necessary attachments shall state the effective date of the order sought, the amount of support sought for each child, the net income of each party, the name and birth date of each minor child, the amount of support set forth for each child; and, whether this amount is below that set forth by the statewide uniform guideline (Family Code Section 4055, and other applicable sections)

b. Where a support order is sought, and the party to whom support is to be paid is receiving Public Assistance, that fact shall be set out in the Judgment, and support shall be ordered payable through the Family Support Division of the Office of the District Attorney of Imperial County or such other entity as appropriate where the supported party does not reside in Imperial County.

c. Where there is an agreement, it shall comply with Family code Section 4065, and Section 4056

if the agreement is for less than guideline. Where there is no agreement, and the amount sought is less than guideline, the requesting party shall set forth in a supporting declaration his or her understanding of the matters referred to in Family Code Sections 4056 and 4065.

d. In establishing temporary orders for child support pending a Judgment, the Court should apply the statewide uniform guideline, unless there is good cause contemplated in law to do otherwise. The income of the parties should be determined based on the best information available, and the tax status of the parties should be based on the filing status anticipated for the year in which the order is made.

[Adopted, effective January 1, 2000]

RULE 13.31 SPOUSAL SUPPORT

a. The issue of spousal support as to each party should be addressed on request properly made. A specific amount may be requested, as well as termination or reservation to award spousal support in the future.

b. If the matter proceeds by default, the supporting declaration shall state the effective date of the order sought, the amount of the support sought, and the actual or estimated net income of each party. A short-term marriage is not, in and of itself, a sufficient basis for the termination of support. The supporting declaration should also sufficiently address the factors set forth in Family Code Section 4320, as well as other applicable sections such as to support the request for spousal support.

c. The award of TEMPORARY spousal support pending Judgment may be considered by the Court in order to maintain a status quo, or to address exigent needs which cannot await Judgment. Where the parties have been separated for an

extended period of time, and absent an exigency, the Court shall use the status quo as a benchmark, with due consideration to any material changes which may have occurred (e.g. cohabitation, fluctuation in income, uncontrollable changes in expenses, etc.). Where the separation is recent (making the determination of a status quo impractical), and spousal support appears indicated in a preliminary review of Family Code Section 4320 and other applicable sections as applied to the facts, the Court may be guided by the "Alameda" spousal support guidelines.

[Adopted, effective January 1, 2000]

RULE 13.32 FAMILY LAW FACILITATOR

Pursuant to Family Code Section 1000 et seq., the Imperial County Superior Court shall maintain an office of family law facilitator. Services provided by the family law facilitator may include, but are not limited to, the following:

A. Meet with litigants to mediate family law issues, including but not limited to child support, spousal support, child custody and visitation, maintenance of health insurance and payment of uninsured medical expenses, subject to Family Code section 10012. Actions in which one or both of the parties are unrepresented by counsel shall have priority.
B. Draft stipulations to include all issues agreed to by the parties regarding family law matters.
C. Providing educational materials to parents concerning the process of establishing parentage and establishing, modifying and enforcing child and spousal support in the court.
D. Distributing necessary court forms and voluntary declarations of paternity.
E. Providing assistance in completing forms.
F. Preparing support schedules based upon statutory guidelines.
G. Assist the court and the clerk in maintaining records.
H. Prepare formal orders consistent with the court's announced order for self-represented litigants.
I. Serve as special master in proceedings and make

findings to the court unless he or she has served as a mediator in the case.

J. Participate in the operation of an assistance clinic for those who are self-represented, including but not limited to training and supervising legal technicians, clerks and volunteers.

K. Assist the court with research and any other responsibilities that will enable the Court to be responsive to the litigants' needs.

L. Develop programs, assist with, work in conjunction with and/or coordinate with the bar, for community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially limited litigants in gaining meaningful access to family court. These programs may specifically include, but not be limited to, providing information concerning expedited child support orders, and court-sponsored programs such as Family Court Services, supervised visitation and appointment of attorneys for children.

[Adopted, effective July 1, 2001]

Division E. JUDGMENTS

Rule 13.33 DEFAULT OR UNCONTESTED JUDGMENTS

A. Judgments may be obtained on declarations where no Response has been filed or where the parties so stipulate. The provisions of Family Code Section 2336 are applicable.

B. Where visitation is an issue, and there is no written agreement, the declaration in support of the judgment shall set forth the terms of visitation; or, where the Petitioner is seeking to deny visitation, the reasons why visitation should not be ordered. If joint custody is requested, the declaration shall also set forth the areas of joint and sole decision making.

C. The declarant shall inform the Court of the date the parties separated, who the physical custodian(s) of each child has/have been during the six (6) months immediately preceding the filing of the declaration, and the extent of contact between the child and each parent

during that time.

[Adopted, effective July 1, 2003]

RULE 13.34 FORMAT OF JUDGMENTS

A. The division of a community estate and confirmation of separate property, may be set forth either in the body of the judgment or in an attached agreement incorporated into the judgment, or both.
B. All protective orders issued as defined in Family Code Section 6218 shall contain the date of their expiration.
C. A spouse's former name shall be ordered restored pursuant to Family Code Section 2080 only upon written request or request in open court.

[Adopted, effective January 1, 2000]

Division F. ATTORNEY'S FEES; LILTIGATION COSTS; SANCTIONS

RULE 13.35 ATTORNEY'S FEES AND COSTS

If a request is made for an order for attorney's fees and costs in excess of $1,500, the request shall include the following:

A. The services performed and costs incurred to date;
B. The time expended;
C. The hourly billing rate if applicable;
D. The best estimate of future services to be performed, costs to be incurred, and reason therefor;
E. Each party's access to community property;
F. The specific amounts requested
G. The total amount paid by or on behalf of the party requesting fees and costs;
H. A history of prior appearances and awards; and
I. Any other relevant factor.

In addition to the foregoing, the items delineated in Code of Civil Procedure Sections 128.5 128.7,and Family Code Section 271 may bear on an award of attorney's fees to either side, as may resistance to a request for an award on the ground that the services were not reasonably

necessary to the prosecution of the case.

[Adopted, effective January 1, 2000]

RULE 13.36 RESERVED

Division G. CONTEMPT

RULE 13.37 GENERAL

A contempt action arising from the citation of the defendant based on allegations of contumacious actions outside the presence of the court is a separate action that is filed in a family law case in accord with Family Code Section 290 and pursuant to Code of Civil Procedure Section 1209 et seq.
[Adopted, effective January 1, 2000]

RULE 13.38 OTHER PENDING HEARINGS AND DISCOVERY

A. The defendant may file a notice that he/she is exercising his/her right against self-incrimination, (substantially in the form set forth in Appendix B4) which shall be filed with the court with copies served on all parties. The effect of said notice is that the defendant is excused from producing any declarations that might be required, either pursuant to rules or law (e.g. an Income and Expense Declaration) or in response to discovery requests. Time for all requests for discovery requiring a personal response from the defendant under oath shall be tolled pending resolution of the contempt citation. The defendant shall not necessarily be excused from producing documents or things pursuant to demand or subpoena, except that no documents or things need be produced pursuant to a demand to which the defendant still has the right to respond under oath, but has yet to do so (Code of Civil Procedure Section 2031(f).

B. In a notice substantially in the form set forth in Appendix B4, the defendant may also request that certain pending matters go off calendar due to the defendant’s inability to participate while exercising his/her rights against self-

incrimination. Absent a showing of dire exigency, said matters will go off calendar. In the event that a dire exigency is shown, matters may go forward, but any orders issuing from such hearings shall be without prejudice and subject to retroactive review and modification.

C. On resolution of the contempt citation, any matter that has gone off calendar may be restored to calendar using a notice substantially in the form of Appendix B5. Absent an order shortening time, a matter may be restored to calendar no sooner than fifteen (15) days after the notice. If the notice is by the defendant, any necessary supporting declarations shall be file therewith. Responsive and reply papers shall be due in the normal course in accord with Code of Civil Procedure Section 1005.

Division H. DOMESTIC VIOLENCE/CIVIL HARASSMENT

RULE 13.39 RESIDENCE EXCLUSION, PERSONAL CONDUCT, AN STAY-AWAY ORDERS

Ex parte orders excluding a party from the party's residence, restraining a party from contacting, attacking, telephoning, etc. a protected person, or directing that a party stay a specified distance away from specified places, shall be signed by a judicial officer only. Such orders will not be issued unless there is a clear showing, by declaration, that recent physical violence has occurred or there is a threat of imminent physical violence. This showing shall include a full description, in detail, of the most recent instance(s) of physical harm, and/or disposition towards violence, and specify the date of EACH occurrence. "Recent" violence is generally defined as physical violence within the past thirty (30) days. An order mutually restraining both parties from engaging in this conduct will not be issued without adequate supporting declarations by both parties. (Family Code Section 6305.)

[Adopted, effective January 1, 2000]

RULE 13.40 CUSTODY AND VISITATION ORDERS

Restraining orders regarding custody and visitation shall be signed by a judicial officer only. A stipulated order regarding custody may be signed where a copy of the custody agreement or appropriate declaration is attached to the petition. (Family Code Section 3061.) Pursuant to Family Code Section 3064, any other restraining orders regarding custody and visitation will only be granted upon a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California. A motion requesting a change in a child's summer or holiday vacation, or the school that the child attends, shall be presented sufficiently in advance to allow the court to obtain any necessary information.

[Adopted, effective January 1, 2000]

RULE 13.41. DOMESTIC VIOLENCE AND CHILD CUSTODY ORDERS.

(1) Court Communication Regarding Restraining Orders.

a. Subject to available resources, the Family, Juvenile and Probate Courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS Civil Restraining Orders. In the event that this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS Civil Restraining Orders.

b. Any order of the Family, Juvenile, or Probate Court that permits contact between a defendant/restrained person subject to either CLETS Civil Restraining Orders or Criminal Protective Orders and his or her children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the children, including the safe exchange of the children, in accordance with Section 3100 of the Family Code. Such an order shall not contain language that conflicts with a Criminal Protective Order. Safety of all parties shall be the Court's permanent concern.

The Court or a Court-related agency may recommend safe and specific contact with the children and direct the defendant/restrained person and/or the victim/protected person to the process for modification of protective orders.

c. Subject to available resources, the Criminal Court shall examine appropriate available databases for existing child custody and visitation orders involving the defendant, victims, or witnesses when issuing Criminal Protective Orders. In the event this information is not available to the judicial officers, inquiry shall be made of the parties to determine the existence of any such orders.

(2) Modification of Criminal Protective Orders.

a. Any Court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a Criminal Protective Order may modify the Criminal Protective Order if all of the following circumstances are applicable:

i. Both the defendant/restrained person and the victim/protected person are subject to the jurisdiction of the Family, Juvenile, and Probate Court, and both parties are present before the Court.

ii. The defendant/restrained person is on probation (formal or court) for a domestic violence offense in Imperial County.

iii. The Family, Juvenile, or Probate Court identifies a Criminal Protective Order issued against the defendant, which is inconsistent with a proposed Family, Juvenile, or Probate Court order, such that the Family, Juvenile, or Probate Order is/will be more restrictive than the Criminal Protective Order or there is a proposed custody or visitation order which requires recognition in the Criminal Protective Order (Boxes (g) or (h) or both on the Criminal Protective Order form).

iv. **The defendant signs an appropriate waiver of rights form or enters a waiver of rights on the record.**

v. **Both the victim/protected person and the defendant/restrained person agree that the Criminal Protective Order may be modified to a more restrictive order or to add Box (g) or (h) or both to the Criminal Protective Order.**

b. **The following Criminal Protective Orders may not be modified in Family, Juvenile, or Probate Court:**

i. **Pre-Trial Orders.**

ii. **Requests for modifications of Criminal Protective Orders which are less restrictive than the existing Criminal Protective Orders.**

c. **The Family, Juvenile, or Probate Court may, at the request of an interested party or on its own motion, calendar a hearing before the Criminal Court on the issue of whether a Criminal Protective Order should be modified. The Family, Juvenile, or Probate Court shall provide the Criminal Court with copies of existing or proposed Orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.**

[Adopted, effective January 1, 2004]

Division I. COMPLIANCE WITH RULES

Failure of any party or attorney at any stage of the proceedings to substantially comply with the requirements of these Local Rules, or the California Rules of Court is governed by Rule 227 of the California Rules of Court as well as Code of Civil Procedure Section 575.2 and Government Code Section 68608(b). The Court may continue the matter, order the case off calendar, hear the matter on a default basis, proceed pursuant to any conditions the Court deems proper, and/or make an award of attorney's fees or impose issue sanctions or other sanctions on appropriate notice.

[Adopted, effective January 1, 2000]

CHAPTER 14

JUVENILE DEPENDENCY PROCEEDINGS

RULE 14.00 ATTENDANCE AT HEARINGS

Unless excused by the Court, each party and attorney shall attend each scheduled Juvenile Court hearing.

[Adopted, effective January 1, 2000]

RULE 14.01 PRESENCE OF MINOR IN COURT

All minors are entitled to attend Court hearings. Every minor ten (10) years or older shall be told of his or her right to attend court hearings and all minors over the age of ten (10) shall be given notice by the investigating/supervising social worker.

All minors shall attend Court hearings unless excused for one of the listed reasons, or as otherwise ordered by the Court:

The minor's attorney waives the minor's appearance;
The minor chooses not to attend;
The minor is excused by the Court; or
The minor is disabled, physically ill, or hospitalized.

[Adopted, effective January 1, 2000]

RULE 14.02 RELATIVES

Upon a sufficient showing, the Court may permit relatives of the child to be present at hearings and address the Court.

Upon a sufficient showing the Court may recognize the minor's present or previous custodians as de facto parents and grant standing to participate as parties in dispositional hearings and any hearings thereafter at which the status of the dependent child is at issue. The person seeking de facto parent status shall have the rights outlined in CRC 1412(e).

(Adopted, effective January 1, 2000]

RULE 14.03 COURT APPOINTED SPECIAL ADVOCATES (CASA)

A. Advocates' Functions. Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

To support the child throughout the Court proceedings;

To establish a relationship with the child to better understand his or her particular needs and desires;

To communicate the child's needs and desires to the Court in written reports and recommendations;

To identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;

To provide continuous attention to the child's situation to ensure that the Court's plans for the child are being implemented.

To the fullest extent possible, to communicate and coordinate efforts with the case manager/social worker;

To the fullest extent possible, to communicate and coordinate efforts with the child's attorneys; and

To investigate the interests of the child in other judicial or administrative proceedings outside Juvenile Court; report to the Juvenile Court concerning same; and, with the approval of the Court, offer his/her services on behalf of the child to such other courts or tribunals.

B. Sworn Officer of the Court. An advocate is an officer of the Court and is bound by these rules. Each advocate shall be sworn in by a Judge before beginning his/her duties.

C. Specific Duties. The Court shall, in its initial order of appointment, and thereafter in any subsequent order, specifically delineate the advocate's duties in each case, which may include independent investigation of the circumstances of the case,

interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by Court order, the advocate shall discharge his/her obligation to the child and the Court in accordance with the general duties set forth above.

D. Court Authorization. To accomplish the appointment of an advocate, the Judge making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the Court.

E. Access to Records. An advocate shall have the same legal rights to records relating to the child he/she is appointed to represent as any case manager/social worker with regard to records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health are provider, psychologist, mental health provider or law enforcement agency. The advocate shall present his/her identification as a Court-appointed advocate to any such record holder in support of his/her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.

F. Report of Child Abuse. An advocate is a mandated child abuse reporter with respect to the case to which the advocate is appointed.

G. Communication With Others. There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintaining among the advocate, DSS case manager, child's attorney, attorneys for parents, relatives, foster parents and any therapist for the child.

H. Right to Notice. In any motion concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice.

I. Calendar Priority. In light of the fact that advocates are rendering volunteer services to children and the Court, matters on which they appear should be granted priority on Court's calendar, whenever possible.

J. Visitation. An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed or the advocate is relieved from appointment.

K. Family Law Advocate. Should the Juvenile Court dismiss dependency and create a family law order pursuant to WIC Section 362.4, the advocate's appointment may be continued in the family law proceedings, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding.

L. Right to Appear. An advocate shall have the right to be present and be heard at all court hearings, and shall not be subject to exclusion by virtue of the fact that the advocate may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a "party" (CRC 1410(b)(6)); however, the Court, in its discretion, shall have the authority to grant the advocate amicus curiae status, which includes the right to appear with counsel.

[Adopted, effective January 1, 2000]

RULE 14.04 VISITATION

Visitation between a minor and the minor's parents, or guardians should be as frequent as possible based on the individual circumstances of the case. Orders for visitation may be issued at any scheduled hearing. Arrangements for visitation may be modified by the filing and approval of a WIC Section 388 petition. Unless specified otherwise by the Court, the following definitions shall apply to visitation orders:

Supervised Visits: DSS is responsible for the supervision of visits unless the court order specifies that a third party may assume that role. Probation staff

may supervise visitation at shelter receiving home. Only reasonable visits may be required to be supervised.

Reasonable Visits: Visits may last up to one day but shall not include overnight.

Liberal Visits: Visits may include overnight and weekends and up to a maximum of fourteen (14) consecutive days.

Extended Visits: Visits which last beyond fourteen (14) consecutive days. Pursuant to state regulations, extended visits become placements after sixty (60) consecutive days.

Any significant decrease from the court-ordered level of a parent's/party's level of visitation shall be presented to the affected parent/party for comment before being submitted to the Court. The Court may set a hearing on the issue after hearing the parent/party's comments on the proposed reduction.

[Adopted, effective January 1, 2000]

RULE 14.05 ATTORNEY COMPETENCY

General Competency Requirement (CRC 1438)

(1) All attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Each attorney of record for a party to a dependency matter pending before the Court, who believes he or she meets the minimum standards of competency shall complete and submit to the Court, a certification of competency as set forth in Appendix B to these rules. Any attorney appearing in a dependency matter for the first time shall complete and submit a certification of competency to the Court within ten (10) days of his or her first appearance in a dependency matter.

(2) Attorneys who meet the minimum standards of training and/or experience as set forth in these rules as demonstrated by the information contained in the certification of competency submitted to the Court, shall be deemed competent to practice before the Juvenile Court in dependency cases except as provided below.

(3) Upon submission of a certification of competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the Court may nevertheless determine, based on conduct or performance of counsel before the Court in a dependency case within the six-month period prior to the submission of the certification to the Court, that a particular attorney does not meet minimum competency standards. In such case, the Court shall proceed as set forth below in subdivision (4).

(4) Any attorney appearing before the Court in a dependency case who does not meet the minimum standards of training or experience shall notify the Court to that effect and shall have until ten (10) days to complete the minimum number of hours of training required to fulfill the requirements of these rules. If the attorney fails to complete such training, the Court shall order, except in case where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the Court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute private counsel shall be solely within the discretion of the party so notified.

(5) In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the Juvenile Court of the California County in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.

[Adopted, effective January 1, 2000]

RULE 14.06 MINIMUM STANDARDS OF ATTORNEY EDUCATION AND TRAINING (CRC 1438)

A. Each attorney appearing in a dependency matter before the Juvenile Court shall not seek certification of competency and shall not be certified by the Court as competent until the attorney has completed the following minimum training and educational requirements.

(1) Prior to the certification, the attorney shall have either:

(a) Participated in at least eight hours of training or education in juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation of reasonable efforts, or

(b) At least six months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

B. In order to retain his or her certification to practice before the Juvenile Court, each attorney who has been previously certified by the Court shall submit a new certificate of competency to the Court on or before January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney shall attach the renewal Certification of Competency as evidence that he or she has completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court-sponsored or approved program will also fulfill this requirement.

C. The attorney's continuing training or education shall be in the areas set forth in these rules or in other areas related to juvenile dependency practice including, but not limited to, special education, mental

health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, the Uniform Child Custody Jurisdiction Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice and the rules of civil procedure.

D. When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the Court by the due date, the Court shall notify the attorney that he or she will be decertified. The attorney shall have twenty (20) days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the Court shall order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the Court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified.

[Adopted, effective January 1, 2000]

RULE 14.07 STANDARDS OF REPRESENTATION (CRC 1438)

All attorneys appearing in dependency proceedings shall meet the following minimum standard of representation:

A. The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise

the attorney or the Court with respect to matters which are beyond the expertise of the attorney and/or the Court; and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the Court.

B. The attorney shall determine the client's interests and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts are unknown, this shall include a comprehensive interview with the client. If the client is a minor child who is placed out of home, in addition to interviewing the child, the attorney shall also interview the child's caretaker. The attorney or the attorney's agent shall make at least one visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or attorney's agent should make at least one visit to the child at the child's placement prior to each review hearing.

C. The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for adhering to court mandated time limits.

D. The attorney shall vigorously represent the child within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel and the Court, explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interest, and to comply with local rules and procedures as well as with statutorily mandated timelines.

[Adopted, effective January 1, 2000)

RULE 14.08 PROCEDURES FOR INFORMING COURT OF THE INTERESTS OF A DEPENDENT CHILD (CRC 1438)

A. At any time during the pendency of a dependency proceeding, any interested person may notify the Court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the minor becomes aware that the minor may have a right or interest which needs to be protected or

pursued in another judicial or administrative forum, counsel for the minor shall notify the Court of such right or interest as soon as it is reasonably possible for counsel to do so.

B. Notice to the Court may be given by the filing of Judicial Council Form JV-180 or by the filing of a declaration. In either case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there.

C. If the person filing the notice is the counsel for the minor, the motion shall state what action on the child's behalf the attorney believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association of counsel specializing in practice before that agency or court may be necessary or appropriate, whether the appointment of a guardian ad litem may be necessary to initiate or pursue the proposed actions, whether joinder of an administrative agency to the juvenile court proceedings pursuant to WIC Section 362 may be appropriate or necessary to protect or pursue the child's interests and whether further investigation may be necessary.

D. If the person filing the notice is not the attorney for the child, a copy of the notice shall be served on the attorney for the child, or, if the child is unrepresented, the notice shall so state.

E. The Court may set a hearing on the notice if the Court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued.

F. If the Court determines that further action on behalf of the child is required, the Court shall do one or more of the following:

(1) Authorize the minor's attorney to pursue the matter on the child behalf;

(2) Appoint an attorney for the child if the child is unrepresented;

(3) Notice a joinder hearing pursuant to Section 362 compelling the responsible agency to report to the Court with respect to whether it has carried out its statutory duties with respect to the child;

(4) Appoint a guardian ad litem for the child for the purposes of initiating or pursuing appropriate action in the other forum(s);

(5) Take any other action the Court may deem necessary or appropriate to protect the welfare, interests and rights of the child.

[Adopted, effective January 1, 2000]

RULE 14.09 DISCOVERY

A. Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties of the litigation.

B. Only after all informal means have been exhausted may a party petition the Court for discovery. A noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. Any responsive papers shall be filed and served prior to the hearing.

C. There shall be no depositions, interrogatories, subpoenas of juvenile records or other similar types of civil discovery without approval of the Juvenile Court upon noticed motion.

D. In contested proceedings, the social worker's narratives and other relevant case records shall be made available to all counsel at least ten (10) calendar days before the hearing an any up-dated records two (2) calendar days before the hearing. IN all other cases, such documents shall be made available at least two (2) calendar days prior to the hearing.

E. Upon timely request, parents, guardians and de

facto parents shall disclose to all other parties such non-privileged material and information within their control which is relevant.

F. No party or attorney in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or Court order.

No party or attorney in a dependency proceeding shall cause the minor to undergo a physical, medical or mental health examination or evaluation without Court approval. This Rule does not apply to the DSS case manager or other authorized DSS social worker.

G. All attorneys representing parties in a dependency case in which child abuse has been alleged and other participants in the case, including a child advocate, shall attempt to minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse. To this end anyone wishing to learn facts about the alleged incident shall first review any interviews taken or reports made by the investigating officer(s).

[Adopted, effective January 1, 2000]

RULE 14.10 PRODUCTION OF DSS REPORTS

Reports prepared by DSS shall be filed, served, and made available to all counsel before the hearing in accordance with the following time limitations, unless otherwise ordered by the Court:

A. Jurisdictional and/or dispositional reports are due at least two (2) judicial days before the hearing;

B. Review of dependency status and status review reports are due at least ten (10) calendar days before the hearing.

C. All other reports shall be due a reasonable time before the hearing, but in no event less than forty-eight (48) hours before.

If a report is not timely filed or made available to all counsel, then any affected party or the Court, may move to strike the report, or request a continuance of the hearing to the extent permitted by law.

The names of any experts to be called by any party and copies of their reports, if not part of a social study report prepared by DSS, shall be provided to all counsel at least five (5) calendar days before the hearing.

[Adopted, effective January 1, 2000]

RULE 14.11 EX PARTE APPLICATIONS AND ORDERS

Ex parte orders are rendered without giving the opposing party an opportunity to be heard.

A. Before submitting ex parte orders to the Court for approval, the applicant must give notice to all counsel, social workers, CASA, and parents who are not represented by counsel, or explain the reason notice has not been given.

B. The party requesting ex parte orders must inform the Court that notice has been given by completing a "Declaration Re notice of Ex Parte Application" form. (See Appendix C.) The original declaration and accompanying application for order must be submitted to the clerk in the juvenile department.

C. Upon receipt of the application and declaration of notice, the courtroom clerk will note the date and time received in the upper right corner of the declaration. In order to give opposing parties ample time to response to the ex parte application, the courtroom clerk will hold the application for twenty-four (24) hours prior to submission to the judge/commissioner for their decision.

D. An opposing party must present any written opposition to a request for ex parte orders to the courtroom clerk within twenty (24) hours of receipt of notice. The Court may render this decision on the ex parte application or set the matter for hearing. The applicant is responsible for serving all noticed parties with copies of the Court's decision or notice that the Court has calendared the matter, and the applicant shall

notify all parties of any hearing date and time set by the Court.

E. Whenever possible the moving and responding papers and declaration re notice shall be served on the attorney for each parent, attorney for the child, county counsel, supervising social worker and parents who are not represented by counsel.

F. Notice may be excused if the giving of such notice would frustrate the purpose of the order and cause the child to suffer immediate and irreparable injury.

G. Notice may also be excused if, following a good faith attempt, the giving of notice is not possible, or if the opposing parties do not object to the requested ex parte orders.

[Adopted, effective January 1, 2000]

RULE 14.12 APPLICATION FOR MODIFICATION OF COURT ORDERS

Except as otherwise provided in the California Rules of Court (CRC), any party seeking an order changing, modifying or setting aside an order previously issued by the Juvenile Court shall file a petition pursuant to WIC Section 388 and CRC 1432.

If relief is sought on an ex parte basis, the completed petition for modification and any supporting papers shall be presented to the Court. The Court shall either grant a hearing on the petition for modification and assign a hearing date, or grant or deny the petition for modification outright.

After the judge or referee signs the petition for modification, the party who presented the petition for modification shall file the petition for modification and any supporting papers with the clerk’s office and serve copies of the filed petition for modification and any supporting papers on each party and the party’s counsel, if any.

If the judge or referee grants a hearing on the petition for modification and assigns a hearing date, the party who presented the petition for modification shall serve,

no less than ten (10) calendar days prior to the assigned hearing date, the filed petition for modification and any supporting papers on each party and the party's counsel, if any. If the petition for modification and any supporting papers is not served on each party or the party's counsel, if any, in compliance with this rule, the hearing date may be taken off calendar.

Any party seeking an order temporarily granting the relief sought in a petition for modification pending the hearing on that petition shall specific in the petition the fact that temporary relief is being sought and the specific nature of the temporary relief sought. Any such request for temporary relief shall be accompanied by evidence demonstrating that the order temporarily granting the relief sought in a petition for modification is in the best interests of the minor. The party seeking an order temporarily granting the relief sought in a petition for modification shall comply with the notice requirements for ex parte applications set forth in Rule 14.11.

[Adopted, effective January 1, 2000]

RULE 14.13 AUTHORIZATIONS FOR TRAVEL AND MEDICAL/DENTAL CARE

A. Unless ordered otherwise by the Court, a minor's care provider may authorize travel by the minor within the State of California with the concurrence of DSS and, when possible, notice to the parent. Any travel for the minor out of the State of California shall require prior court approval. Any application to the Court for orders regarding travel of the minor shall state what efforts have been made to notify the parent(s) and their response, if any.

B. Unless counsel for a party has specifically requested advance notice of ex parte applications regarding out-of-state travel or medical/dental care for the minor, an ex parte application may be made, without advance formal notice, to the judge or referee in whose courtroom the minor's case is assigned, seeking an order permitting minor to travel out of state with the foster parent or care provider, relative, or other appropriate adult acceptable to DSS, or an order authorizing that medical or dental care be performed on the minor. All

such ex parte applications shall be filed no less than ten (10) calendar days prior to the proposed travel or medical/dental care absent good cause shown on the application, or unless the Court has specified a greater or lesser period. All such ex parte applications shall comply with Rule 14.11 above and include the following information.

(1) the name and address of each party to the action, and the name and address of each party's counsel;

(2) the efforts made to obtain the consent of and/or give notice to the parents or guardians of the minor of the proposed travel or medical/dental care;

(3) if a parent or guardian has refused to agree to the proposed travel or to give consent to medical/dental care, that fact shall be noted on the application, including the ground for the parent/guardian's refusal, if known;

(4) for any parent or guardian whom DSS was unable to locate to give notice and/or obtain consent, a description of the efforts made to locate the parent/guardian; the fact the minor's counsel has been notified of the proposed travel or medical/dental care, and said counsel's position on the proposed travel or medical/dental care.

C. When presented with an ex parte application for order authorizing out-of-state travel or medical/dental care, the Court shall either grant the request and issue the order, or deny the request. If the Court issues the requested order authorizing out-of-state travel or medical/dental care the party who sought the order shall file the ex parte application form and order with all counsel. Any party disagreeing with the order for out-of-state travel or medical/dental care shall place the matter on calendar for further consideration.
[Adopted, effective January 1, 2000]

RULE 14.14 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS AGAINST ATTORNEYS (CRC 1438)

A. Any party to a juvenile court proceeding may lodge a written complaint with the Court concerning the

performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent.

B. Each appointed attorney shall give written notice to his or her adult client of the procedure for lodging complaints with the Court concerning the performance of an appointed attorney. The notice shall be given to the client within ten (20) days of the attorney's appointment to represent the client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the Court within ten 910) days of a request therefor from the Court. In the case of a minor client, the notice shall be mailed or given to the current caretaker of the child. If the minor is twelve (12) years of age or older, a copy of the notice shall also be sent or given to the minor.

C. The Court shall review a complaint within ten (10) days of receipt. If the Court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules, the Court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint and shall give the attorney twenty (20) days from the date of the notice to respond to the complaint in writing.

D. After a response has been filed by the attorney or the time for a submission of a response has passed, the court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or has acted incompetently. The Court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

E. If, after reviewing the complaint, the response and any additional information, the Court finds that the attorney acts contrary to the rules of the Court, the Court may reprove the attorney, either privately or publicly, and may, in cases of willful or egregious violations of local rules, issue such reasonable monetary sanctions against the attorney as the Court may deem

appropriate.

F. If, after reviewing the complaint, the response and any additional information, the Court finds that the attorney acted incompetently, the Court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six months, that the attorney complete a specified number of hours of training or education in the area in which the attorney's conduct caused actual harm to his or her client, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the Court shall order that competent counsel be substituted for the attorney found to have been incompetent and may, in the Court's discretion, refer the matter to the State Bar of California for further action.

G. The Court shall notify the attorney and the complaining party in writing of its determination of the complaint. If the Court makes a finding under subdivision (5) or (6), the attorney shall have ten (10) days after the date of the notice to request a hearing before the Court concerning the Court's proposed action. If the attorney does not request a hearing within that period of time, the Court's determination shall become final.

H. If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the attorney's request therefor, but in no case shall it be held more than thirty (30) days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least ten (10) days notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. The Court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.

I. At the hearing, each party shall have the right to present arguments to the hearing officer with respect to the Court's determination. Such arguments shall be based on the evidence before the Court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time

that the Court made its initial determination with respect to the complaint. Within ten (10) days after the hearing, the Court or hearing officer shall issue a written determination upholding, reversing or amending the Court's original determination. The hearing decision shall be the final determination of the Court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney.
[Adopted, effective January 1, 2000]

RULE 14.15 TIMELINES

Attorneys for parties are required to adhere to the statutory timelines for all hearings. Time waivers will be accepted and continuances granted only on a showing of exceptional circumstances. Timelines for hearings are as follows:

A. Detention Hearings shall be heard no later than the end of the next court day after a petition has been filed; (WIC 315; CRC 1442)

B. Jurisdiction Hearing. If the child is not detained, the hearing on the petition shall begin within thirty (30) calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall begin within fifteen (15) court days from the date of the detention order; (WIC 334; CRC 1441).

C. Disposition Hearing. If the child is detained, the hearing on disposition must begin within ten (10) court days from the date the petition was sustained. If the child is not detained, the disposition hearing shall begin no later than thirty (30) calendar days after jurisdiction is found; (WIC 358; CRC 1451).

D. Six Month Review Hearing. The Court is required to review the status of every dependent child within six (6) months of the declaration of dependency and at least every six (6) months thereafter; (WIC 364; 366, 366.21; CRC 1460).

E. Twelve Month Review. The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within twelve (12) months of the declaration of dependency; (WIC 366.21; CRC 1461).

F. Eighteen Month Review. If the child is not returned at the twelve (12) month review, the Court shall conduct a review no later than eighteen (18) months from the date of the original detention; (WIC 366.21, 366.22; CRC 1462).

G. Notice of Intent to File Writ Petition. A notice of intent to file a petition for extraordinary writ shall be filed within seven (7) days of the date of the order setting a hearing under WIC 366.26, with an extension of five (5) days if the party received notice of the order only by mail; (CRC 39.1B).

H. Petition for Writ. A petition seeking writ review of orders setting a hearing under WIC shall be served and filed within ten (10) days after the filing of the record in the reviewing court; (CRC 39.1B).

I. Response to Writ Petition. Any response to a writ petition shall be served and filed within ten (10) days after the filing of the writ of petition or within ten (10) days of receiving a request for a response from the reviewing court; (CRC 39.1B).

J. Selection Hearing for permanent placement shall begin within one hundred twenty (120) days of the review at which reunification services are terminated and a hearing under WIC 366.36 ordered; (WIC 366.21, 366.22; CRC 1460; 1461; 1462).

K. Notice of Appeal. A notice of appeal shall be filed within sixty (60) days after the rendition of the judgment. (CRC 39).

[Adopted, effective January 1, 2000]

RULE 14.16 FINANCIAL RESPONSIBILITY FOR ATTORNEYS FEES

A. Policy. Pursuant to WIC 903 et seq., the Court may make an evaluation of the financial ability of parent(s) or guardian(s) to reimburse the County for legal services.

B. Timing of Referral. Financial Responsibility may be determined at the conclusion of any of the

following hearings:

(a) at the time of dismissal, if before the dispositional hearing;

(b) disposition;

(c) at the 366.21(f), 366.22(f) or 366.22 hearing if the Court orders a permanent plan and a 366.26 hearing is not set;

(d) at the 366.26 hearing;

(e) at any time the attorney is relieved from further representation.

C. Procedure. Financial responsibility shall be determined according to the procedures set forth in the Superior Court Guidelines For Assessment and Collection of Costs For Court-Related Services (attached as Appendix D), or as otherwise ordered by the Court.

{Adopted, effective January 1, 2000]

CHAPTER 15

APPELLATE DIVISION RULES

RULE 15.00 PREAMBLE

An Appellate Division of the Court consisting of three judges or, when the Chief Justice finds it necessary, four judges is established in the Court pursuant to Code of Civil Procedure Section 77 and other applicable laws and rules. The Chief Justice shall designate one of said judges as the presiding judge ("APJ") of the division.

[Adopted, effective January 1, 2000]

RULE 15.01 JURISDICTION

The Appellate Division of the Court has jurisdiction on appeal as set forth in CCP 77(e).

[Adopted, effective January 1, 2000]

RULE 15.02 HEARINGS

Except as herein otherwise provided, a panel of three judges assigned by the APJ shall hear and decide appeals before the Court. NO judge who decided the matter on appeal shall be assigned to the panel.

[Adopted, effective January 1, 2000]

RULE 15.03 DECISIONS

The concurrence of at least two (2) judges shall be required for a decision in any case, except for routine matters generally heard by the APJ, such as motions, extraordinary writs, and applications for stays.
[Adopted, effective January 1, 2000]

RULE 15.04 SESSIONS.

The Appellate Division shall meet on the second Friday of each month provided there are then before the Court cases which meet all of the following:

(a) The record has been filed with the Appellate Division,

(b) All briefs have been filed and served, and,

(c) The matter has been submitted, oral argument has been requested, or the time for requesting oral argument has elapsed.

[Adopted, effective January 1, 2000]

RULE 15.05 APPOINTMENT OF COUNSEL

A. defendant appealing a misdemeanor conviction, who had appointed counsel at trial or who has otherwise met the standards for appointed counsel, is entitled to appointed counsel on appeal. A party, meeting such standards may apply for appointment of counsel with the Appellate Division. Applications are decided without hearing by the APJ.

B. When a defendant was earlier represented by appointed counsel and such defendant files as appeal, the appointed counsel in the lower court shall prepare or cause to be prepared a financial declaration setting forth with specificity the request for the appointment of counsel on appeal, the applicant's and his or her spouse's monthly income and expenses, as well as a detailed statement of all assets owned by the appellant and his or her spouse, the fair market value of the assets and liabilities. This statement shall be signed by the appellant under penalty of perjury and shall be submitted with a request to appoint counsel. A financial declaration in the form used by the Fourth District Court of Appeals Division One for the appointment of counsel may be used for this purpose. Except as provided in CRC[2] 187.5, nothing contained herein shall relieve appointed counsel from preparing, filing and serving the statement on appeal.

C. Appointments will be made by the Court from the list of attorneys kept by the Appellate Division.

D. After the decision on appeal has become final, appointed counsel shall submit an application for attorneys fees for services rendered in the appeal to the APJ. The APJ shall consider the application and may award reasonable attorneys fees pursuant to Penal Code Section 987.2. In addition to requiring a current financial declaration, the Court may require testimony

[2]Reference to "CRC" refer to the California Rules of Court.

under oath at a hearing in order to determine the defendant's ability to pay for all or a portion of the attorney's fees incurred in connection with the appeal. The date and time for such a hearing may be set by the APJ. Notice of the date and time for such a hearing, if one is required, shall be served on counsel not later than twenty (20) days prior to the date of the hearing.

[Adopted, effective January 1, 2000]

RULE 15.06 ELECTRONIC RECORDING

Unless the trial court orders otherwise, misdemeanors and cases of limited jurisdiction shall be electronically recorded and the provisions of CRC 187.5 are hereby adopted for appeals in such matters. A party wishing to have a matter recorded shall request recording, in writing, at least two (2) court days in advance.

RULE 15.07 COMMENCEMENT OF APPEAL

An appeal shall be commenced by the filing of the notice of appeal. The notice of appeal shall be filed as provided in CRC 122 and 182(a). The notice of appeal shall be filed in the trial court.

[Adopted, effective January 1, 2000]

RULE 15.08 RECORD ON APPEAL (CIVIL)

(1) The "record on appeal" includes the clerk's transcript and may include the reporter's transcript, an agreed statement or a settled statement. The record is designated and prepared in the trial court.

(2) The parties must comply with CRC governing the method and time limits for designating and providing the record on appeal and are responsible for assuring that the required record is paid for and prepared.

(3) Within ten (10) days of filing notice of appeal, appellant must pay the required fees for the clerk's transcript designated by appellant in the trial court.

(4) Appellant must designate and file notice in the trial court to obtain a reporter's transcript

and pay for that transcript within the time required by CRC.

(5) A statement on appeal or agreed statement must be filed within the time limits set forth by CRC.

[Adopted, effective January 1, 2000]

RULE 15.09 RECORD ON APPEAL (CRIMINAL)

A. The "record on appeal" includes the clerk's transcript and may include a reporter's transcript, settled statement or agreed statement, pursuant to CRC 187.5.

B. The parties must comply with the CRC governing the method and time limits for designating and providing the record on appeal.

C. The clerk's transcript is prepared by the trial court clerk without request or payment by the appellant.

D. An appellant may present the evidentiary record (testimony and/or exhibits) to be Appellate Division by filing and serving a notice that appellant will rely upon either:

(1) A settled statement on Appeal

(2) An agreed statement

(3) Reporter's transcript

(4) CRC 187.5 statement

[Adopted, effective January 1, 2000]

RULE 15.10 STATEMENT ON APPEAL.

In all criminal cases, the appellant must file a proposed statement on appeal. The statement on appeal shall include at a minimum the following:

A. A detailed description of the evidence that is the basis for the appeal or if the appellant intends to rely on a transcript, that appellant intends to make it a

part of the statement.

B. A detailed statement of the grounds for appeal.

C. In cases where a transcript will not be relied upon, the statement of evidence must be detailed, specific and as extensive as necessary to inform the court of the evidence presented in the lower court that supports the appeal.

The statement on appeal shall be filed with the trial court and served on opposing counsel not later than fifteen (15) days of the filing of the notice of appeal.

[Adopted, effective January 1, 2000]

RULE 15.11 RESPONDENT'S AMENDMENTS.

The respondent may, but shall not be required to file a responsive statement setting forth any amendments to the appellant's statement or additional evidence not included in respondent's statement. The respondent's statement shall be filed within fifteen (15) calendar days of the filing of the appellant's proposed statement. If a transcript is filed, an amendment to the transcript may be filed within fifteen (15) calendar days of the date appellant has served notice on respondent that a transcript has been filed.

[Adopted, effective January 1, 2000]

RULE 15.12 AGREED STATEMENT ON APPEAL.

It is the policy of this Court to encourage the use of an agreed statement on appeal whenever possible. To the extent that the parties are able to stipulate as to some matters but not others, the parties shall file a joint agreed statement setting forth those matters upon which they can agree and those matters as to which they cannot. As to those matters that the parties cannot agree, the joint statement shall set forth each of the parties' respective positions as the matters not agreed on. The appellant shall prepare the agreed statement on appeal but it shall be signed by counsel for all parties.

[Adopted, effective January 1, 2000]

RULE 15.13 SETTLEMENT OF THE STATEMENT ON APPEAL.

After respondent's statement has been filed or the time for filing has expired, the Court shall fix a time for settling of the statement on appeal. The trial court may direct that additional matters be included in the settled statement and may direct the appellant to prepare the statement, including such matters as the court may direct, to be filed with the Appellate Division.

The judge who heard the matter in the trial court shall resolve any conflicts in the evidence and shall certify the statement prior to its filing with the Appellate Division.

A certified statement on appeal shall be filed with the Appellate Division not later than ten (10) days after the trail court judge has certified the statement on appeal. The clerk of the court will mail copies of the certified settled statement to each of the parties at the time that it is filed with the Appellate Division.

{Adopted, effective January 1, 2000]

RULE 15.14 COSTS OF TRANSCRIPTS

A. In criminal cases in which the defendant appeals any court order or judgment, and requests a transcript at public expense, the Court may conduct a hearing to determine the defendant's financial ability to pay all, or part of, the transcript expense. The APJ may decide whether or not to grant the request without hearing. A request for a transcript at public expense in cases where the matter appealed from was electronically recorded will be granted only in exceptional circumstances and only upon a showing of good cause.

B. The defendant's request for the preparation of a transcript at public expense shall be in writing and shall set forth by declaration good cause for the request including but not limited to a detailed and specific amount of all efforts made to create a record through other means such as a settled statement. Upon receipt of such a request the APJ will review and, if necessary, set a date and time for the hearing and notify the party requesting the transcript.

[Adopted, effective January 1, 2000]

RULE 15.15 BRIEFS

A. All Briefs shall conform with CRC 501 and shall be prepared, served, and filed as provided by rule 105. An original and three (3) copies shall be filed with the Clerk of the Superior Court. No brief may exceed fifteen (15) pages (exclusive of the table of authorities, table of contents and proof of service) without permission of the APJ.

B. The appellant's opening brief shall contain:

(1) Table of contents

(2) Table of authorities.

(3) Procedural and factual summary.

(4) Concise statement of issues raised on appeal.

(5) Argument or discussion.

(6) Conclusion.

C. Briefs shall be filed with the Appellate Division. The appellant's opening brief shall be filed with and served no later than twenty (20) calendar days after notice of settling of the statement of appeal. Respondent's brief shall be filed and served within twenty (20) calendar days of the filing of the opening brief. Respondents' brief shall follow the same format as Appellant's opening brief and shall address issues on appeal in the same order as Appellant's opening brief. Appellant's reply brief shall be filed and served not later than ten (10) calendar days of the filing of the respondents' opening brief. All briefs shall include a proof of service on the trial court and each opposing counsel.

[Adopted, effective January 1, 2000]

RULE 15.16 DEFAULT, FAILURE TO PERFECT APPEAL, PROCURE RECORD OR FILE BRIEF.

If the appellant fails to perfect the appeal, procure the preparation of the record or file an opening brief or fail to do any act required by these rules or by law to expeditiously prosecute the appeal, the appeal may be dismissed. Prior to dismissal the Court may send notice indicating that unless the default is cured within fifteen (15) days of the mailing date of the notice, the appeal shall be dismissed.

If the respondent fails to file a responsive brief, or to do any act required by law or by these rules to expeditiously conclude the appeal, the Court may mail a notice stating that if the default is not cured within fifteen (15) days the Court may determine the appeal notwithstanding the default or in the alternative deem the appeal to be meritorious.
[Adopted, effective January 1, 2000]

RULE 15.17 EXTENSION OR SHORTENING OF TIME; RELIEF FROM DEFAULT

Applications for an extension to do an act or shortening of time or for relief from default shall comply with Rule 137 and shall be addressed to the trial or to the APJ.
[Adopted, effective January 1, 2000]

RULE 15.18 APPLICATIONS AND MOTIONS

A. Routine applications and motions shall be served on opposing counsel and submitted to the Appellate Division. No application on routine matters or motion shall exceed five (5) pages. All applications shall include a declaration under penalty of perjury stating with particularity the grounds and reasons for the application and/or motion.

B. Motions to Withdraw as Counsel must comply with the requirements of Code of Civil Procedure Sections 284 and 285.

C. Rulings on applications and motions made pursuant to this rule are made, without hearing, by the APJ or such other Judge as the APJ shall assign.

[Adopted effective January 1, 2000]

RULE 15.19 FILING FEES

A. Filing fees required by Government Code Section 26824 must be paid in the trial court, except for respondent's fees, which must be paid in the Appellate Division.

B. For litigants who qualify, filing fees may be waived by the court. Applications for fee waivers must be filed in the trial court at the time of filing the notice of appeal or within ten (10) days thereafter.

{Adopted, effective January 1, 2000]

RULE 15.20 STAY ORDERS IN PENDING CIVIL APPEALS

A. Applications for stay orders pending appeal before notice of appeal has been filed must be filed in the trial court. Applications for stay orders pending appeal after notice of appeal has been filed must be filed in the Appellate Division.

B. Applications for stay orders are ruled upon, without hearing, by the Court, which may request opposition papers be filed before ruling.

C. Petitions for writ of supersedeas must be filed in the Appellate Division and must comply with the CRC 104(a); must be served in accordance with CRC 104(a); and, must be accompanied by proof of service at the time of filing. Petitions for writ of supersedeas will be ruled upon, without hearing, by the APJ who may request that opposition papers be filed before ruling on the petition.

D. Petitions for writs of supersedeas may be granted only on a showing of exceptional circumstances. In unlawful detainer matters, the petition must meet the requirements of Code of Civil Procedure Section 1176.

[Adopted, effective January 1, 2000]

RULE 15.21 CRIMINAL APPEALS.

A. Applications for bail or release on own recognizance must first be made in the trial court, and if denied, may then be made in the Appellate Department.

B. Applications for bail reduction are ruled upon, without hearing.

C. Applications for stay of execution must first be made in the trial court, and, if denied, may then be made in the Appellate Division. Applications for stay are ruled upon, without hearing.

[Adopted, effective January 1, 2000]

RULE 15.22 ORAL ARGUMENT.

A. The date for oral argument will be ordered by the Appellate Division. A party who fails to appear at oral argument when the case is called is deemed to have waived oral argument. Continuances will only be granted upon a showing of good cause. Continuances by stipulation are subject to the approval of the APJ. Applications for continuances will be ruled upon, without hearing, by the court.
[Adopted, effective January 1, 2000]

RULE 15.23 ABANDONMENT.

An appeal may be abandoned before the record is filed in the Appellate Division by filing a written abandonment in the trial court. After the record is filed in the Appellate Division, a civil appeal may be dismissed on written request of the appellant or by stipulation of the parties filed in the Appellate Division. Counsel for appellant shall be responsible for advising the Appellate Division, in writing of the abandonment. Notice shall be given in all cases, including where a matter has been settled between the parties or the judgment, if any, has been fully satisfied.

[Adopted, effective January 1, 2000]

RULE 15.24 JUDGMENT.

Judgment will be issued within ninety (90) days of submission. A statement of reasons or opinion may be issued, but is not required.

[Adopted, effective January 1, 2000]

RULE 15.25 REHEARING.

A. A petition for a rehearing must be served and filed with proof of service within fifteen (15) days after the judgment is filed. An answer to the petition may be served and filed within eight (8) days after service of the petition. If a rehearing is ordered, the Appellate Division may place the case on calendar for further argument or may resubmit the matter for decision without argument.

B. Any party may move the Court to certify, or the Court on its own motion may certify, that transfer of a case to the Court of Appeal appears necessary to secure uniformity of decision or to settle important questions of law. An application to certify must be filed before the judgment on appeal is final.

[Adopted, effective January 1, 2000]

RULE 15.26 PUBLICATION.

An opinion shall be published when a majority of the court hearing the appeal certifies the opinion meets one or more of the standards set forth in CRC 976(b), and a Court of Appeal does not order the case transferred to it for hearing and decision.

{Adopted, effective January 1, 2000]

RULE 15.27 SPECIFIED EXTRAORDINARY WRITS

A. Where a petition for writ of mandate or prohibition (or some other form of extraordinary writ) challenges a ruling or order issued by a judge (where an appeal does not lie), the matter will be referred to the Presiding Judge of the Appellate Division for assignment to a judge. The Appellate Division is authorized to

adopt standing orders which further address procedures to be followed in making such an assignment.

B. The judge assigned to the matter may 1) summarily grant or deny the petition, 2) request an informal or formal response prior to ruling on the petition, or 3) refer the matter for a full hearing before an Appellate Division Panel.

C. All petitions and responses thereto shall include one (1) original and three (3) copies.

{Adopted, effective January 1, 2000]

RULE 15.28 SANCTIONS RE NON-COMPLIANCE.

Failure to abide by these rules or by the California Rules of Court regarding appeals may result in sanctions against the non-complying party or counsel or both.

CHAPTER 16

PROBATE RULES

RULE 16.00 CAPTION OF PETITIONS

The caption of a petition shall be all-inclusive as to the order sought so that the matter may be properly calendared and posted, and any filing fees determined. If any part of the estate is to be distributed to a trust, the caption shall so indicate.

[Adopted effective January 1, 2000]

RULE 16.01 APPEARANCES

Appearances are required on all petitions for appointment of conservators/guardians, confirmation of sale of real or personal property and any petition which has objections filed. All other petitions may be preapproved by the Probate Examiner, with no appearance required, if an order is received by the Court prior to the hearing. However, if an interested person appears and objects and the Court determines that an appearance is necessary by Counsel, the matter may be continued. No notice of a continued hearing date will be mailed by the Court; it is the responsibility of Counsel to determine whether the matter has been approved or continued.

[Adopted, effective January 1, 2000]

RULE 16.02 PROBATE EXAMINER

Counsel may telephone the Probate Examiner's Office (760-482-4359) to determine if all necessary documents are on file two to five days prior to the hearing.
[Adopted, effective January 1, 2000]

RULE 16.03 JUDICIAL COUNCIL FORMS

All probate forms adopted by the Judicial Council are mandatory in this county. All pertinent items must be checked.
[Adopted, effective January 1, 2000]

RULE 16.04 HEARINGS

All probate matters are heard on Fridays of each week at 8:30 a.m. in the assigned probate department. The

hearing date is scheduled by counsel and required to be on all notice of hearing forms at the time of filing. The Court does not schedule the date of any hearing or mail notices of any hearings.
{Adopted, effective January 1, 2000]

RULE 16.05 ORDER FOR FAMILY ALLOWANCE.

The duration of an order for family allowance is limited to six months if no inventory and appraisement has been filed, and is limited to one year if an inventory and appraisement has been filed.

[Adopted, effective January 1, 2000]

RULE 16.06 INDEPENDENT ADMINISTRATION.

When a personal representative has been granted authority to administer the estate under the Independent Administration of Estates Act (beginning at Probate Code, Section 10400), the following policies shall apply:

A. The original of the notice of proposed action and proof of mailing or personal delivery of the notice shall be filed with the Court.

B. In any accounting or petition for distribution, the personal representative shall report all acts taken without court authorization, approval, confirmation, or instruction that would be required if authority to administer the estate under the Independent Administration of Estates Act had not been granted ("independent acts"). With respect to each independent act, the personal representative shall state whether notice of proposed action was not given, the personal representative should allege whether such notice was not required or waived. Independent acts reported in a prior noticed petition need not again be reported in a later petition.

C. If no independent acts have been taken during administration, this fact should be stated in the petition for final distribution.

[Adopted, effective January 1, 2000]

RULE 16.07 INVENTORY AND APPRAISAL.

(a) Attachment No. 1 to the Inventory shall include assets appraised by the personal representative. Those items which may be appraised by the personal representative are set forth in Probate code Section 8901.

(b) Attachment 2 shall list all assets to be appraised by the probate referee. All assets which the Probate Code does not allow the personal representative to appraise must be appraised by the probate referee unless otherwise ordered.

(c) The Inventory should contain a statement of the character of the property on each attachment (i.e., separate, community, quasi-community). If the character of property is community and/or quasi-community, the statement should indicate whether the estate includes the entire or a one-half interest.

(d) The Inventory should list all assets of the estate as they existed as of the date at which the assets are to be appraised (i.e., date of death or date of appointment of guardian or conservator).

(e) With the exception of specific sums of cash, all specifically bequeathed personal property owned by the decedent on the date of death shall be itemized and separately appraised on the Inventory.

(f) Both a complete legal description and the street address of any real property are required on the Inventory and Appraisal. (Out-of-state real property is not within the jurisdiction of the courts of the State of California and should not be listed on the Inventory and Appraisal.) A well-presented description will include the following information:

(1) Complete legal description;

(2) Common address;

(3) Assessor’s Parcel Number;

(4) Description of type of property (i.e., single family residential, multi-family residential, commercial, industrial, agricultural, mining, mineral interests, unimproved land.

(g) The Inventory should not include any asset which is not an asset of the estate, such as:

(1) Insurance proceeds payable to named beneficiaries.

(2) Individual retirement accounts payable to named beneficiaries.

(3) Trust assets which pass by trust terms, including Totten Trusts.

(4) Assets held in joint tenancy.

[Adopted, effective January 1, 2000]

RULE 16.08 STATEMENT REGARDING BOND.

(a) The Statement Regarding Bond portion of the Inventory shall be completed by the Attorney at the time the Inventory is filed with the Court.

(b) If the bond on file is insufficient, a petition for an order increasing bond shall immediately be filed.

[Adopted, effective January 1, 2000]

RULE 16.09 REQUIRED FORM OF ACCOUNTS.

(a) All accounts filed in probate proceedings, including guardianship, conservatorship, trust and decedent’s estates, shall set forth the beginning and ending dates of the account period and conform to the following rules: (See Probate Code Section 1061.)

(1) Accounts shall contain a summary or

recapitulation including:

CHARGES

(a) Amount of appraisals, if first account. If subsequent account, the amount chargeable from the prior account.

(b) Amount of receipts segregated as to income and principal.

(c) Gains on sales or other dispositions of assets (if any).

CREDITS

(a) Amount of disbursements.

(b) Losses on sale or other disposition of assets (if any).

(c) Amount of property on hand.

(2) A suggested form of summary is as follows:

SUMMARY OF ACCOUNT

CHARGES	
Amount of Inventory and Appraisal (Or, if subsequent account, Amount Chargeable from Prior Account)	**$_____**
Receipts during account period (Schedule A)	**$_____**
Gains on Sales (Schedule B)	**$_____**
Total Charges	**$_____**
CREDITS	
Disbursements during account period (Schedule C)	**$_____**
Losses on Sales (Schedule D)	**$_____**
Other Credits (Schedule E) (Property distributed, etc.)	**$_____**
Property on Hand (Schedule F)	**$_____**
Total Credits	**$_____**

(3) Total Charges shall equal Total Credits.

(4) The summary shall be supported by itemized schedules. The schedules of receipts and disbursements shall show the payor or payee, nature or purpose of each item and date thereof. Transactions not otherwise reported, such as stock splits and exchanges of securities, shall be set forth in appropriate additional informational schedules. The schedule of property on hand shall describe each item and indicate the appraised value.

(5) Accounting values of assets should not be changed to reflect fair market value, but fair market value may be set forth separately in the report or account.

[Adopted, effective January 1, 2000]

RULE 16.10 WAIVER OF ACCOUNTING IN DECEDENTS' ESTATES.

A detailed accounting may be waived in decedents' estates as provided by statute when all persons entitled to distribution agree and have filed written waivers. The waiver makes it unnecessary to list the detail of receipts and disbursements. All other matters (e.g., the reporting of creditors' claims, sales, purchase or exchanges of assets, changes in the form of assets or other transactions) must be presented in the report.

[Adopted, effective January 1, 2000]

RULE 16.11 ALLEGATIONS RE CLAIMS.

The report accompanying any accounting or waiver of accounting shall include the following information:

(a) Whether any Notice of Administration was given to creditors within the last 30 days of the four-month statutory creditors' claim period and a complete listing of the creditors to whom such notice was sent, including the date mailed, to allow the Court to determine the

expiration of the creditors' claim period. This allegation is also necessary in petitions for preliminary distribution. (See Probate Code Section 9051.)

(b) If all Notices of Administration were given prior to the last 30 days of the four-month statutory claims period, an abbreviated statement noting that the requirements of Probate Code Section 9050 were met.

(c) Creditors' claims filed, the date of filing, the name of the claimant, the amount of the claim, and the action taken on the claims. (See Probate Code Section 10900(2).)

Claims paid by the personal representative under Independent Administration must be listed in like manner.

(d) Creditors' claims not paid and a statement as to when due, or, if rejected, the date of mailing the notice of rejection, and whether or not suit has been filed on the rejected claim.

(e) There is no need to file copies of notices to creditors or proof of the service of notices to creditors unless requested by the Court.

[Adopted, effective January 1, 2000]

RULE 16.12 FEES MUST BE STATED EVEN THOUGH ACCOUNT WAIVED.

In accounts, or in petitions for distribution accompanied by waiver of accounting, the report must state the amount of the personal representative's commissions payable and the amount of attorney's fees payable and set forth the basis for their calculation. When income is included in the basis for calculation, even though the accounting is waived, a detailed schedule of income must be presented.

[Adopted, effective January 1, 2000]

RULE 16.13 NON-STATUTORY FEES AND COMMISSIONS.

A petition for services other than statutory compensation rendered in a probate or other proceeding shall include:

A. A declaration by the attorney, personal representative, trustee or other fiduciary of the services rendered or to be rendered by each of them itemizing their services by date, time and service rendered;

B. The sum requested for each item of service, together with the total amount requested for such services (and not merely "reasonable fees"); and

C. A reference in the caption and prayer to the additional fees.

In determining such fees, the Court shall consider the difficulty of the tasks performed, the reasonable value of time expended, the amount of the estate accounted for, and whether an accounting is waived.

RULE 16.14 FEES FOR CONSERVATORS AND ATTORNEYS.

Petitions for a fee request should be filed with the annual or biennial accountings.

Fees for court appointed attorneys should be requested at the hearing as part of the attorney's report.

Services rendered by conservators and their attorneys must be set forth in a detailed statement of the facts upon which the fee request is based, including a schedule which states: the nature and difficulty of task performed; the results achieved; the benefits to the conservatee or conservatee's estate; a description of each separate service performed; the hours spent; and total amount requested.

[Adopted, effective January 1, 2000]

APPENDIX A

CIVIL

GUIDELINES FOR DEFAULT JUDGMENTS

After entry of default a plaintiff/petitioner must obtain a default judgment within sixty (60) days, unless other defendants named in the complaint have answered. A default judgment may be obtained from the clerk without a hearing or judgment and seeks recovery of money damages only in a fixed or determinable amount and the defendant was not served by publication (Code of Civil Procedure, Section 585, subdivision (a)). Applications for default judgment by clerk should be submitted to the civil business office of the Court.

If the case is not amenable to default judgment by clerk, the Court encourages the submission of applications for default judgment by court by declaration or affidavit in accordance with Section 585, subdivision (d), of the Code of Civil Procedure. Such applications should be submitted to the civil business office of the appropriate court.

Entry of judgment against defaulted defendants will generally be deferred until resolution of the entire action. If it is believed that a several judgment resolution against a defaulted defendant is proper prior to the resolution of the entire action, the plaintiff should support its application with applicable factual and legal authority (Section 579 of the Code of Civil Procedure).

The Court retains discretion to require oral prove-up hearings in appropriate cases following its review of the papers submitted. Prove-up hearings are often triggered by the following:

1. **Credibility of parties/claims at issue;**
2. **Punitive damages claims;**
3. **Fraud claims;**
4. **Personal injury/wrongful death claims;**
5. **Quiet title actions; and/or**
6. **Claims for injunctive relief.**

Requirements for Default Judgments

A concise factual summary of the case, including a detailed statement of the relief requested and a clear showing of the current procedural status of the case.

Affidavits/declarations and a brief memorandum of points and authorities establishing a prima facie case for the judgment.

A judgment not exceeding the amount of the prayer. In personal injury and wrongful death actions, a judgment not exceeding the total on the statement described in Sections 425.11 and 425.115 of the Code of Civil Procedure.

A declaration of nonmilitary status completed within six (6) months.

A memorandum of costs.

The original written contract, if any, giving rise to the action, or a declaration regarding lost document.

An itemization of attorney fees, if any, including hourly rate and time expended, together with a copy of the contract, if any, containing an attorney fee provision.

If the action is upon an open book account, an affidavit/declaration that no written contract exists.

A computation of any interest, including the date of accrual and rate of interest.

A dismissal without prejudice of all unserved defendants, including fictitiously named defendants.

A proposed judgment on applicable form. If there is no applicable form, pleading form is acceptable.

A copy of the notice described in Section 1033, subdivision (b)(2), of the Code of Civil Procedure, if applicable.

The original summons.

The ledger or most recent invoice showing amounts due (default judgment by court only).

APPENDIX B

DOMESTIC RELATIONS

Attorney or Party Without Attorney: **Telephone:** **Attorney for (Name):**	***COURT USE ONLY***
SUPERIOR COURT OF STATE OF CALIFORNIA, COUNTY OF IMPERIAL	
and	
DECLARATION RE: NOTICE UPON EX PARTE APPLICATION FOR ORDERS	**Case No.**

I, the undersigned, declare under penalty of perjury that:

1. I am:

A. Counsel for ? Petitioner ? Respondent

B. ? Unrepresented Petitioner ? Unrepresented Respondent

C. ? Other (Explain)

2. The opposing party is represented by counsel: ? Yes ? No

If you checked "Yes", fill in attorney's name, address and telephone number.

_____

_____

3. The parties to this action have <u>not</u> been involved in <u>another</u> Family, Probate or Juvenile Court case.
(If there has been another case, fill in the County in which the case is pending _____ and the Case No. _____.

4. I have given notice of this ex parte application? Yes? No
(If "No", then proceed to question No. 6 below.)

Copies of these pleadings were given to:
_____

BY: ? Personal delivery ? overnight mail/other carrier
? Fax transmission ? other (explain)

_____

Date and time of notice

_____
(date)

(time)

5. I have received the following response:

_____

6. I have NOT given notice of the present application for ex parte orders because:

A. Notice would frustrate the purpose of the orders sought.

B. Applicant would suffer immediate and irreparable harm before the orders could issue.

C. No significant burden or inconvenience to the responding party will result.

D. The orders requested are those permitted without notice by local rule.

E. I made reasonable, good faith efforts to give notice, as follows:

_____

F. Other:_____

_____

YOU MUST EXPLAIN WHY YOU CHECKED 6.A.,B.,C.,D., OR E.
_____

_____

_____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was signed at

_____, California, this _____ day of _____, 2003, at _____ (a.m.) (p.m.).

_____
Declarant

AN INTRODUCTION TO MEDIATION

What is Mediation?

Imperial County is concerned about the physical and psychological welfare of children whose parents are experiencing interpersonal problems. Sometimes these problems result in the temporary or permanent separation of the parents, making planning of shared access to the children difficult. In most cases, both parents want to maintain a quality relationship with each of the children; yet sometimes anger can interfere with the planning of time for each parent to be with each of the children. Most parents would like some neutral person, concerned primarily with the needs of the children, to assist them in developing a fair, workable plan to see their children. This person, called a Mediator, meets with the parents to resolve differences regarding shared access.

The mediation process is often the last opportunity for parents to make their own decisions about their children rather than have these decisions made for them by the Judicial System. Throughout California, the mediation process has assisted parents in reducing much of the pain experienced by the children during the separation and/or dissolution process.

How Does Mediation Work?

1. The parents are directed to the Mediator by the Judge, usually on the first court hearing date. Subsequently, the parents are given a written notice of the time, date, and place of their first mediation session. Prior to that session, the parties may receive additional information on the process, and watch a videotape on mediation and divorce. Because of time limitations, if either party misses the agreed-upon time, parents will be given only one additional opportunity for mediation.

2. Individually and together, parents work with the Mediator for 1-4 hours, designing a plan enabling both parents to maintain a quality relationship with each of the children. The parents are responsible for providing the Mediator with any information that would be helpful in the mediation process. Where domestic violence is alleged, arrangements may be made such that the parties need not be in the same room for mediation. Also, a party claiming to be a victim of domestic violence may request arrangements to have a support person present for mediation. Usually, attorneys will not be present for mediation.

3. When an agreement is reached, it is typed and then signed by both parents and the Mediator. A copy is given to each parent and to each attorney. Once the agreement is signed by all parties and attorneys, the agreement is then sent to Superior Court.

4. If no agreement can be reached, or if all parties and attorneys do not sign the initial agreement, the issues of custody and visitation will be resolved by the Court.

UNA INTRODUCCIÓN A LA MEDIACIÓN

¿Qué es Mediación?

Al condado de Imperial le preocupa el bienestar psicológico y físico de los ninos cuyos padres sufren problemas interpersonales. Algunas veces estos problemas resultan en una separación temporal o permanente do los padres y resulta difícil planear el tiempo compartido. En casi todo los casos, ambos padres desean mantener una buena relación con cada uno de sus hijos, pero algunas veces el disgusto puede interferir con el tiempo compartido de cada padre para estar con cada hijo. A la mayoría de los padres les gustaría tener una persona neutral que ponga ante todo lo que mas necesiten los ninos y que les ayude a los padres llevar a cabo un plan justo y realizable para poder ver a sus hijos. Esa persona, es el Mediador y el entrevista a los padres para resolver las diferencias tocante al tiempo compartido.

El proceso de mediación frecuentemente es la última oportunidad que tienen los padres para que hagan sus propias decisiónes pertinente a sus hijos en vez de que se las haga el sistema judicial. Por todo California, el proceso de mediación les ayuda a los padres de familia disminuír el sufrimiento de los ninos durante la separación y/o el divorcio.

¿Cómo funcióna la mediación?

1. Normalmente en la primera audiencia en el tribunal, el Juez envía a los padres con el mediador. Posteriormente, se les da a los padres un aviso por escrito de la fecha, la hora y sitio de su primera cita de mediación. Antes de esa cita, los padres podrían recibir mas información del proceso y ver un video sobre el tema de la medición y el divorcio. A causa de limitación de tiempo, si alguno de los padres no acude a la hora acordada, se les dará a los padres solo una oportunidad mas para la mediación.

2. Individualmente y juntos, los padres trabajan con el mediador de 1-4 horas, para llegas a un plan que permita que ambos padres mantengan una buena relación con cada uno de sus hijos. Los padres tienen la responsabilidad de darle al mediador cualquier información que sea de ayuda en las citas de mediación. Cuando se manifesta que hay violencia en el hogar, se pueden hacer citas donde los padres no tienen que estar en el mismo cuarto para la cita de mediación. También, la parte que manifeste ser la víctima de violencia en el hogar puede pedir que se hagan arreglos para tener una persona de apoyo presente en la cita de mediación. Normalmente los abogados no esterán presentes durante la mediación.

3. Cuando se llega a un acuerdo, el acuerdo se escribe a máquina y se firma por ambos padres y el mediador. Se le dá una copia a cada uno de los padres y a cada abogado. Una vez que firmen los padres y los abogados, el acuerdo se manda al Tribunal Superior.

4. Si no se llega a un acuerdo, o si los padres y los abogados no firman el acuerdo inicial, los asuntos sobre la patria potestad y visitas serán resueltos por el Tribunal Superior.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF IMPERIAL

In re the Marriage of: **Petitioner,** **And** **Respondent.**	**Case No.** **ADVANCE MEDIATION REQUEST AND ORDER THEREON** **DATE:** **TIME:** **DEPT:**

A dispute with regard to custody and/or visitation exists in a pending case filed in the Imperial County Superior Court. Petitioner/Respondent requests that the matter of custody and/or visitation be referred to mediation at this time.

DATED: _____

_____

Attorney for Petitioner/Respondent

IT IS ORDERED that the above named parties are referred to the Family Court's Mediation Services for advance mediation with regard to child custody and/or visitation.

DATED: _____

_____

Judge of the Superior Court

Appendix B-3

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF IMPERIAL

In re the Marriage of: **Petitioner,** **and** **Respondent.**	**Case No.** **NOTICE OF INTENT TO EXERCISE RIGHT AGAINST SELF-INCRIMINATION** **DATE:** **TIME:** **DEPT:**

TO: _____
(Petitioner/Respondent) and Attorney

Comes now Petitioner/Respondent in the above-entitled action and gives notice that he/she shall exercise his/her right against self-incrimination in the Order to Show cause Re Contempt entered [date]. Pending resolution of the citation for contempt, the Petitioner/Respondent shall be excused from the necessity of making or producing statements under oath in accord with RULE 13.38 A. of Imperial County Superior Court Local Rules.

DATED: _____

_____

Attorney for Petitioner/Respondent

APPENDIX B-4

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF IMPERIAL

In re the Marriage of: **Petitioner,** **and** **Respondent.**	**Case No.** **NOTICE OF RESTORATION AFTER RESOLUTION OF CONTEMPT CITATION** **DATE:** **TIME:** **DEPT:**

TO: _____,
Petitioner/Respondent and Attorney

The pending contempt citation having been resolved, the matter(s) set forth in the Notice(s) of Motion/Order(s) to Show Cause filed on [date] as follows:

1. _____
2. _____

is/are hereby renoticed as set forth above.

DATED: _____

_____
Attorney for Petitioner/Respondent

APPENDIX B-5

APPENDIX C

JUVENILE

SUPERIOR COURT OF CALIFORNIA
COUNTY OF IMPERIAL
JUVENILE DIVISION
CERTIFICATION OF COMPETENCY

I,_____(name)_____
_____ (office address)
_____ (telephone number), am an attorney at law licensed to practice in the State of California. My State Bar Number is _____. I hereby certify that I meet the minimum standards for practice before a Juvenile Court set forth in California Rules of Court, rule 1438, and Local Rule VIII, and that I have completed the minimum requirements for training, education and/or experience as set forth below.

Training and Education: (Attach copies of MCLE certificates or other documentation of attendance.)

COURSE TITLE	DATE COMPLETED	HOURS	PROVIDER

Juvenile Dependency Experience:

CASE NO.	NUMBER OF CON-TESTED HEARINGS	DATE OF LAST APPEARANCE	PARTY REPRESENTED

DATED:_____

_____
Signature

APPENDIX C1

Attorney or Party Without Attorney:

Attorney for_____

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL, JUVENILE DIVISION

) CASE NO.
_____)
_____) DECLARATION RE NOTICE OF
Name of Dependent Child) EX PARTE APPLICATION
_____)

I, the undersigned, declare:

1. I am [ ] counsel [ ] social worker [ ] mother [ ] father [ ] minor [ ] Department of Family and Children's Services or [ ] other (explain) _____ _____ in this dependency action.

2. Pursuant to Juvenile Court Local Rules, I have given notice of, and a copy of this application for ex parte orders to, the following persons:_____
_____
_____

Notice to the above named persons was given in the following manner:
[ ] telephone at _____ [ ] a.m. [ ] p.m.
[ ] letter [ ] mailed [ ] hand delivered to (insert name and address):
_____
_____, on _____, _____.

3. I have received the following response: _____
_____
_____.

4. I have not given notice of this application for ex parte orders for the following reason(s):

[ ] a. Would frustrate the purpose of the orders requested.

[ ] b. Minor child would suffer immediate and irreparable harm before the orders could issue.

[ ] c. No significant burden or inconvenience to responding party will result from the orders requested.

[ ] d. I made reasonable, good faith efforts to give notice, as follows:
_____
_____
_____

[ ] e. Other:
_____.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed at _____, California, _____.
(DATE)

_____

Declarant

GUIDELINES FOR ASSESSMENT AND

COLLECTION OF COSTS FOR COURT-RELATED SERVICES

1. Policy and Authority. Based on ability to pay, it shall be the policy of the Imperial County Court System to assess sums representing costs for legal services, probation related services and court-appointed investigations, as hereinafter set forth. Specifically, assessments shall be made to individuals for services as follows:

(a) adult defendants for costs of legal services provided by court-appointed counsel (Penal Code Section 987.8);

(b) convicted defendants for services rendered by the Probation Department as referenced by Penal Code Section 1203.1b;

(c) parents or other persons responsible for the support of minors for legal services provided in either juvenile delinquency or dependency proceedings (Welfare & Institutions Code Section 903.1)[3] ; and

(d) parents (or other persons seeking custody or visitation) in family law matters where the Court directs the Probation Department (or other court-appointed investigator) to conduct custody/visitation evaluation or supervision (Family Code Section 3112).[4]

2. Costs for Services. In each case where the Court determines ability to pay, the Court shall make an order requiring the appropriate person or persons to pay for all or part of the costs incurred for services referenced under 1 above, as further discussed below. To assist the Court with respect to determination of amounts to be assessed, the Public Defender, other court-appointed counsel and Probation Department shall provide information as set forth below:

(a) Public Defender and Other Court-Appointed Counsel. The Public Defender and other attorneys who provide criminal defense services, or services in Juvenile

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[3]In addition to assessments for costs incurred in providing legal services to minors in dependency proceedings, assessments shall be made for legal services provided in such proceedings to other family members as authorized by Section 903.1 of the Welfare & Institutions Code.

[4]Assessments may be in addition to those made for costs of mediation.

Court, by Court appointment, shall annually establish an hourly fee which shall represent the average hourly cost of providing such services (Government Code Section 27712).[5] Said counsel shall keep a record of the time devoted on a case by case basis so as to be able to advise the Court and Probation Department of the amount of time devoted to a case as of the time of disposition.

(b) Probation Department. As required by Penal Code Section 1203.1b, the Probation Department shall develop a payment schedule for reimbursement for the costs of preplea or presentence investigations based on income. The Probation Department shall likewise submit information relating to the bases of its charges for other services referenced by Section 1203.1b and for civil custody and/or visitation related services as referenced in 1(d) above. Charges imposed for services rendered by the Probation Department shall not exceed the actual average cost thereof.

3. Determination of Ability to Pay; Recommendation by Probation. Every court order which requires a defendant (parent or other responsible person) to reimburse the County for all or a portion of costs for services incurred, shall be based on ability to pay. In determining ability to pay, the following procedures shall be followed:

(a) Financial Disclosure. Completion of financial disclosure forms shall be required as follows:

(1) Each adult defendant who requests appointment of either the Public Defender or other court-appointed counsel shall be required to complete a financial disclosure statement as authorized by Penal Code Section 987(c).[6]

(2) Parents (or other responsible persons) shall be required to complete financial disclosure statements in cases involving minors in juvenile delinquency or dependency cases in Juvenile Court.

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[5]Hourly rates established for legal services provided in Juvenile Court proceedings shall be submitted to the Board of Supervisors for approval so as to comply with Section 904 of the Welfare & Institutions Code.

[6]A defendant who is bound-over after having been provided court-appointed counsel by the Municipal Court may be required to complete a new or supplemental financial disclosure statement on requesting court-appointed counsel by the Superior Court.

(3) Parents (or other persons seeking custody or visitation) in family law disputes shall be required to provide income and expense statements as required by the Family Code. (Applications for fee waivers may also be submitted as authorized by law.)

(b) Interview and Evaluation By Probation. In every case where the Court intends to issue an order requiring a defendant (or parent or other responsible person) to pay costs incurred for services rendered as referenced under 1 above, the Court may require the defendant (parent or other responsible person) to be interviewed by a representative from the Probation Department concerning his or her ability to pay for costs of services. The Court may also direct the Probation Department to conduct an evaluation concerning the ability of the defendant (parent or other responsible person) to make payments.[7]

(c) Recommendation by Probation. Upon request by the Court, the Probation Department shall in writing recommend the amount of payment and the manner in which payments shall be made to the County, based upon the defendant's (or parent's or other responsible person's) ability to pay. The Probation Department's recommendation shall contain a summary of the facts upon which it is based; and, it shall take into account, without limitation, the amount of any fine imposed and the amount of any restitution ordered paid.

(d) Right to Hearing. A copy of the written recommendation of the Probation Department, if any, shall be provided to the defendant (or parent or other responsible person) and to court-appointed counsel. The defendant (or parent or other responsible person) shall be advised the recommendation is not final until ordered by the Court and that the defendant (or parent or other responsible person) is entitled to a hearing if in disagreement with the recommendation.

4. Order For Payment; Hearing.

(a) When a defendant (parent or other responsible person) agrees with the recommendation of the Probation Department, the Probation Department shall prepare a proposed order, containing the written consent of the

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[7]So as to comply with Welfare & Institutions Code Section 903.45, request shall be made of the Board of Supervisors to designate the Chief Probation Officer as county financial evaluation officer pursuant to Section 27750 of the Government Code. (Refer also to Welfare & Institutions Code Section 903.45.)

defendant (or parent or other responsible person); and, shall submit the same to the Court for signature.[8]

(b) If the defendant (parent or other responsible person) does not agree with the recommendation of the Probation Department, a hearing shall be scheduled before the Court to determine the amount of payment, if any, and the manner in which payments shall be made. The following rules shall apply to the hearing:

(1) The defendant (parent or other responsible person) shall be entitled to the opportunity to be heard in person, to disclosure of evidence against him or her, to present witnesses and other documentary evidence and to confront and cross-examine the representative of the Probation Department, who prepared the recommendation, and any other adverse witnesses.

[8]It is the Court's intention the order when so signed and entered shall have the force and effect of a judgment.

(2) At the hearing, if the Court determines the defendant (parent or other responsible person) has the ability to pay all or part of the costs, the Court shall set the amount to be reimbursed and order the defendant (or parent or other responsible person) to pay that sum to the County in the manner in which the Court believes reasonable and compatible with his or her financial ability.[9]

5. Collections. The Probation Department (with the assistance of the office of County Counsel) shall be responsible for collecting sums ordered paid pursuant to these guidelines. Subject to approval by the Board of Supervisors, collection procedures may be developed which involve utilization of outside collection agencies.

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[9]When the Court determines that the defendant's (parent's or other responsible person's) ability to pay is different from the recommendation of the Probation Department, the Court shall state on the record the reason for its order.

With the consent of the defendant (parent or other responsible person), the Court may at the hearing direct the Probation Officer and defendant (parent or other responsible person) to further meet to work out a schedule for making payments to satisfy the amount ordered for payment by the Court. (The order when signed and entered shall have the force of a judgment.)

IMPERIAL COUNTY FORMS*

FORM NO.	NAME OF FORM
	CIVIL
General	
C-001	Request for Hearing
C-002	Memorandum of Credits, Accrued Interest and Costs After Judgment
C-003	Declaration for Writ of Execution
C-101	At Issue Memorandum
C-102	Arbitration Conference Statement
C-103	Election for Arbitration
C-104	Objection to Arbitration
C-105	Stipulation for Arbitration
C-106	Notice of Rejection of Arbitrator
C-107	Notice of Date and Place of Arbitration Hearing
C-108	Stipulation and Consent for Continuance of Arbitration Hearing
C-109	Declaration/Order Extending Time for Filing of Arbitration Award
C-110	Notice of Settlement Re: Arbitration
C-111	Award of Arbitration
C-112	Arbitrator's Fee State
C-113	Request for Trial De Novo After Arbitration
Unlawful Detainer	
C-201	Application for Judgment for Restitution of Premises Only Pursuant to CCP 1169
C-202	Judgment by Default by Clerk – Unlawful Detainer
C-203	Judgment by Default by Court – Unlawful Detainer
Probate	
P-301	Declaration for Final Discharge
Small Claims	
CS-401	Request for Postponement
CS-402	Clerk's Notice of Postponement
CS-403	Order for Return of Exhibits
	CRIMINAL
EF-501	Petition and Order Under Penal Code Section 1203.4

* All forms are mandatory.

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